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Miss Mary 27th 1882 New Bedford

in  
Co.



B. RUHL'S  
BOOKBINDERY,  
8th. bet. J & K,  
SACRAMENTO.



8996







VOLUME

IN THE SUPERIOR COURT,

State of California, County of Sacramento.

OCTOBER SESSION, 1881.

HON. JACKSON TEMPLE, - - - - - PRESIDING JUDGE.

WINFIELD J. DAVIS, OFFICIAL REPORTER.

SAMUEL OSBOURNE AND WILLIAM M. CUTTER, REPORTERS.

The People of the State of California,  
*vs.*  
 The Gold Run Ditch and Mining Co.

COUNSEL:

*For Plaintiff,*

HON. A. L. HART, Attorney General, GEORGE CADWALADER, ISAAC S. BELCHER, A. L. RHODES, RICHARD BAYNE.

*For Defendant,*

J. K. BYRNE, W. C. BELCHER, S. M. WILSON, W. T. WALLACE, A. B.  
DIBBLE, A. P. CATLIN.



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In the Superior Court of the  
State of California in and for the  
County of Sacramento

The People of the State of California vs. The Gold Run Ditch and Mining Company	}	Fourth day Friday Nov. 18. 1881
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Morning Session

Testimony  
of  
James Holland

Called for plaintiff Room  
Mr. Cadwalader. Mr Holland, where  
do you reside?

A. I reside out at the  
north side of the city out  
near Lisle's bridge, the road  
leading out to Nevada?

Q. What business are you  
engaged in?

A. I am farming - orchard  
and raising fruit have been



Principally my business.

Q. Is your place on the banks of the American river

A. Yes sir on the banks of the American river near the bank

Q. Adjoining Lisle's bridge?

A. Yes sir

Q. At this end of Lisle's bridge when did you come to California

A. I came in 1850

Q. Where from?

A. I came from New Orleans to this County

Q. When did you first see this American river?

A. I saw it in 1850

Q. At what place?

A. Well, the first time I saw the American river was just about where Lisle's bridge is, in 1850

Q. That was the old ford wasn't it?

A. The old ford

Q. On the road to Auburn Nevada?

A. Nevada, after I arrived in Sacramento I went to Nevada and mined and



I crossed the American at the old ford there near Disler bridge

2. How often did you cross it down to 1867?

A. Well up to the time there I frequently crossed it once or twice a year till 1867 when I became a purchaser of the land known then as the Stubbs Gardens, fruit garden

2. Where have you lived ever since?

A. I have resided there ever since

2. Now describe the American bottom as you first saw it including the river?

A. When I first crossed the American river. I was in the month of July, about the 20<sup>th</sup> of July in 1850, because I arrived here on the 17<sup>th</sup> in San Francisco. I arrived in San Francisco on the 17<sup>th</sup> and I came to Sacramento about the 20<sup>th</sup> of July 1850. I then made my outfit for the mines in this place. There were several in the Company



And we struck out for Nevada  
 We hired an ox team to  
 haul our plunder and mining  
 outfit and we footed it from  
 here to Nevada City. I recollect  
 crossing the American River and  
 at the time there was a ford  
 in the month of July.  
 As a party we waded  
 the river there. There was  
 no other crossing there unless  
 an ox team and it was  
 too much loaded to carry  
 us across

Q. There wasn't much in  
 that because I did it my-  
 self the year before but de-  
 scribe the river from bank to  
 bank?

A. Well, the river it seems  
 to me, to the best of my  
 recollection there, the banks  
 it was probably there to  
 four hundred feet, probably that

Q. From bank to bank?

A. Yes sir I don't have  
 any positive recollection exactly

Q. Well, how high were the



Banks?

A. Well I recollect going down a steep grade, dug down in the side of the bank into the river and the other side was going out in the same way. It was a steep grade dug down through the banks, and the river was from bank to bank.

2. It was from bank to bank?  
A. Yes sir, it ran from bank to bank.

2. What kind of a bottom was it there?

A. It was a smooth bottom smooth hard bottom.

2. Composed of what?

A. Well, I suppose it was composed of sand and gravel, seemed to be small gravel.

2. How about the bottom, the American bottom?

A. Well, the bottom I say seems to be composed of sand and gravel.

2. No, but I mean the bottom lands, the lands on



Each side?

A. The land on each side, the banks seemed to be high and abrupt; timber growing along the banks.

2. What kind of timber?

A. It was cottonwoods and seemed to be sycamore and probably willows growing in the bank. I recollect some oak trees out on the bluff on top of the bank.

2. What was the character of the land on the banks of that river there?

A. Well, it seemed to be a sandy loam, a kind of a loamy soil, dark.

2. What class of land?

A. Well, it was what we call now rich land, a class of land — it was a dark loamy soil.

2. First, second, third, fourth, fifth, or sixth class, which?

A. Well, it looked like first class land, to look at it



Q. When did you first notice the ~~river~~ water running sand?

A. Well, I crossed it a few times along I think about 1852-1851-1852 frequently back to Sacramento and from the mines, and during the year 1852 and 1853 the water looked a little riley in the day time in part of the days and it seemed to run clear during the night. It was clear water, but sometimes it seemed to be a little riley.

The Court What year was that?

A. That was in 1862 or 1852.

Mr. Cadwalader Q. Do you mean 1852 or 1862?

A. 1852. I have seen it a little riley when the rains was falling.

Q. When did you first notice any material change in the river?

A. Well, it was about 1866



and '67.

Q. Well up to that time

A. At that time I was there and crossed it very frequently and at that time the water was very and muddy and a great deal of sand, in the river along the banks, and debris

Q. When did you first notice it making any deposits on the banks?

A. Well in 1867. November I purchased that place, and then I resided on what is known as the Hubbard garden then.

Q. What was the condition of that land then?

A. That land was all very good land. There was some little sediment on the black loam over a portion of it, part of it was black loam at the time.

Q. Well, how much sediment was there at that time?

A. Well sometimes in places



probably an inch and that  
up to six inches

L. Well, how much of that

A. Well, that was ploughed  
I know I could plow any  
place into the back soil  
at the time that I was  
Cultivating.



2- Had the land been im-  
paired to any extent by such  
deposits? A- Well up to  
that-time I don't think the  
land was much injured  
that-portion of it

2- When did that sediment  
come on? A- But in the  
Spring, that-is the winter  
of 1868. It was in December  
and January 1867 + 1868, there  
came high waters, appar-  
ently high water and overflow  
the whole place; overflow  
three feet into my house  
covered the whole place;  
covered all the land and  
even into my house and barn  
that same winter that-I  
had purchased. I suppose  
it was three feet in my house  
running as setting then  
and left a tremendous lot  
of sand and debris all over  
the place. covered  
up my grape vineyard;  
it covered them up to the  
top of the vines; though



my orchard it covered it up  
about two feet of sand came  
in and all. kuds of brush  
drift lumber and mining  
lumber, flumes, wheel-borrows  
and wheel runs and rockers  
and a lot of most everything  
houses and parts of it

2- All the mining machinery  
that you had seen used in  
the mountains.

Mr. Catlin- I object to that.  
a- Well the same kind of  
machinery I had used in  
the mines, I knew, old shafts  
and wheel and wheel-borrows  
and wheel runs and such  
like as that I had used  
you know in the mines.

Mr. Cadwalader, You had  
been in the mines how long  
before that? a- I had lived  
nearly fourteen years.

2- Did you recognize the  
sand?

Mr. Catlin- Ask him what  
he recognized

a- Well I was satisfied in



my own mind that the sand was from the mines; that it came out of the cañons and the rivers, having seen the same kind of material thrown in very frequently into the rivers and bars at that time I had followed mining in Nevada country. I never had mined on the American river.

2 - What effect did the deposite have upon your land?

A - Well the deposite that came in that flood from me up to two feet was this dry loose sand, sand that had become dried in the summer so that it would not produce anything. It dried out for probably a foot and a half or two feet, dried in the summer and it would not produce anything.

2 - Did you notice the water in the river during that flood? A - Yes sir



I had occasion to see it for  
 I had to go in a boat at  
 every place I went at that  
 time I had to live almost in it  
 & what was the Condition  
 of the water, a very riley  
 and muddy very deep  
 Sediment and mud

Q what proportion of it  
 would be Solida matter?

A. well I am not able to  
 say what proportion would be  
 I recollect Sediments that  
 settled in my house at  
 the time, I can tell how  
 much that -

Q (Interrupting) well tell  
 us that, That is what I am  
 getting at?

A. well I think it settled  
 about three or four inches  
 of sediment right in the  
 house into all the rooms  
 in my house where the  
 water was into it, I know  
 when I had to clean it out  
 it was pretty deep, there  
 was from three to four



inches of sediment after the water had gone out in the house and barn -

Q How did the water get into your house?

A. Well it raised high enough to run into it. Covered the whole earth around the land.

Q Were your doors closed?

A Well yes I might have closed the doors but it come high enough to run into the windows.

Q How large was your house?

A. Well my house was a very large house, it was built there originally, for a public house. It is a house probably 80 feet in length probably 28 feet wide probably -

Q How many rooms in it?

A. Well there is about twenty one rooms in the house

Q What kinds of out houses did you have barns and so forth? A. Well it is a frame barn weatherboarded with a



floor : a frame barn and weather boarded

Q what other improvements did you have?

A. Well I had barns and sheds and my wagon sheds and I had my dwellings what was the most improvements besides fences I had fences. the place was well fenced in with picket fences

Q How many trees did you have A. Well I don't

know how many exactly how many fruit trees I had about thirty acres in orchard and injured somewhere about thirty acres of orchard and vineyard together.

Q state if you know how much of the fill occurred in the American River Channel during that flood of 1867 and 1868?

A. Well I should think it filled at least four feet in the Channel in some places more



Q in the Channel of the river from bank to bank

A. yes Sir.

Q How does that river Come down in the Extreme high water

A. Well it Come down very rapidly at that time. at that flood it Come down very rapidly

Q What Current

A a Terrible Current. Current enough to Carry houses with it I have seen frequently houses and barns and everything being Carried down with it down the Current. I also seen houses

Mr Spensers and Mr Cogswells house that lay a little East of me, I saw them going down through the fields and across through rather down the North levee of the City. They washed away and I frequently seen other houses Coming down

Q Do you recollect whether the rain of all of that winter



was comparatively large  
or comparatively small or  
only an average?

A. Well I am not able to  
say I didn't pay part-  
icular attention to the  
amount of rain that fell  
I am not able to say  
I know that it rained  
very hard at the time  
and for about four or  
five days it was a terrible  
Rain



Q What have you seen moving in the bed of the river? what kind of material? A. well I have seen sediment flowing I have seen debris, trash of all kinds, leaves, and some timbers and brush and such like, as that, I have seen flowing in the river

Q How about the waves during high water?

A well I have seen it frequently at late floods since that. There was a flood in was in 1868 I have frequently seen the water high up. It has been out several times over my place. There was sand rolls. It seems to tumble over and over as it floated down the stream in high waves.

Q What are called sand waves?  
Mr Catlin Now just let him describe it.

A. yes It looked to me like sand waves. I know  
755 it was sand because it



formed on different parts. and  
as it rolled over I could  
see the rolls and ridges of  
Sand

Mr Cadwallader you just describe  
to the court in your own way  
the operation of these sand  
waves - A. Well the sand  
waves seemed to -

Mr Catlin [Intg] I object  
I desire to make an objection  
to this mode of examination  
Counsel has suggested a good  
many novelties to these witnesses  
and now he is introducing  
something that originated in  
his own mind - and which he  
calls sand waves. and  
he interjects that expression  
into the witnesses mouth, so  
to speak. at least in a  
manner so that it gets  
into the official report. If  
the witnesses of his own  
Notion Chances to say that  
he saw sand waves there  
and describes what sand  
waves are of course that



is proper but I object to Mr Cadwallader inventing those terms and getting them incorporated in the official report as a part of the official testimony in this case. The Court is aware I have objected time and time again and the Court has several times intimated to Mr Cadwallader that his questions are too suggestive. But it has no effect upon him whatever. He persists in that course of examination and I feel it my duty just as often from this time forward as he continues that no matter how tedious it may be to continue to object and I now call upon the Court to take some measures if it can to keep Mr Cadwallader within the bounds of legitimate examination.

The Court (after discussing the witness spoke of moving sand Mr Collins He was describing



the water.

The Court He described the movement of it.

A. The Current of the water moving up and down in the river, rolled over in waves and was caused as I could see from the action of the sand - It is caused by the sand that made the water roll over. The waves would tumble way up and then fall back very rough where the current was very strong.

It was sand because I seen the sand with sand waves as the water rolled over. I could see the ridges as the water run over it

Q How high would these waves be? A. Well it used to throw them up probably two or three feet sometimes maybe less. But it didnt run smooth. It run that way! Sometimes it would throw up a white sort of a flush of water



and roll up like probably two feet.

2- What kind of a noise would these waves make!

A- Oh well, it is just like rolling water would be, over any kind of rough falls.

2- Did you ever discern a kind of cracking sound?

Mr. Ballin - I object to that question as leading.

Mr. Cadwalader - 2- Did you ever discern any sound proceeding from there?

A- Well, I have heard the noise from it. It makes a noise, a rumbling noise.

2- Is there any difference between that and the noise of water that don't contain any sand?

A- Oh yes, there is a good deal of difference because where the water runs smooth it will not make that noise. It is a great deal different in smooth running water, than that, It makes a rapid roaring -



noise, as running over a shoal for instance or something of that kind. As I have seen frequently the water roars when falling over the shoals or rocks and it made that kind of a noise

Q- Was this an unusual phenomena, referring to the sand waves in this river, during its extreme high stages since 1867? A- I didn't understand your question

Q- Well was it anything unusual? A- Well, it is rather unusual. It is only in the very high stage of water that it makes this noise; this roaring of tumbling water when the water is up.

Q- I mean the sand waves. What I want to get at is this; do they or do they not manifest themselves at all times now when that river gets high?

A- Yes, when the river gets —



high, when the American is higher than the Sacramento the Sacramento oftentimes when it gets high first, it creates a dead water back in the American river, and they don't have that rolling water and noise because it is a more still water back for as high as Rabel's Ferry, or probably Thirty-first street; it backs water and leaves the water a kind of dead water when the Sacramento should be higher than the American.

Oftentimes, the American being a shorter river, it seems to rise early, faster than the Sacramento, and during the quick raise, why the American is a strong current, a heavy current. But as soon as the Sacramento gets up then it begins to deaden back. They don't have that rapid current that it has when - 2 (Intg)  
What was this material left in the bed of the



American river, by the floods of 1867 and '68.

A- Well, I could see it was a sand, a white sand.

Q- The same white sand?

A- Yes Sir

Q- What changes have you noticed since 1867 and '68 in that same river channel?

A- Well a considerable change. Where the American river runs there, then days was round, made a bend around there by the City. Rabel's tannery, it was called, made a great bend in the river there, and then run more south west, more north west direction; since that time there has been a canal cut across the bend of that river, and there is about a mile and a half or two miles, I think, from the bridge, the present Leisler's bridge round that bend up to near just below the Railroad bridge, it - the old bed is filled up entirely, probably



frame bank to bank; it is like a level; level with all the banks, pretty much. not any difference, scarcely, growing up places in willows and in winter the water's come round there.

Q- How much was the fall of that river about abreast of your place, last winter? A- Well, from my field up towards round that old bed of river, I suppose it must have fallen four to six feet in places.

Q- Do you recollect my being with you in the bed of the river in July of this year? A- Yes Sir.

Q- We were about a hundred feet above Lewis's bridge were we not?

Mr. Lattin - That I object to as being leading and I move to strike the answer out.

The Court - I suppose that is merely introductory to another question.



Mr. Battie - He states that it was a certain distance above Lisle's bridge.

The Capt. - Still it is not as to any fact in the case.

Mr. Leadwacker - 2-100 feet above Lisle's bridge? A- Yes Sir. We was probably 400 feet above -

2- Well, what was the fill there at that point during last winter? A- About

four to six feet fill from the end of the slough; the canal down to the bridge on that side.

2- What was the fill composed of, of last winter?

A- Well, I could see nothing but white sand. It was all sand; it appeared to me I saw nothing but sand. I seemed to be a white drift sand.

2- In some places in that river in that neighborhood how is the fill in the river bed as compared with the original banks?

A- Well, at



the present time the banks have been raised probably two or three feet right on the old original banks. There is some places that the river runs nearly as high as the original banks. The black loam soil; other places it has marked it has cut according to the water. Sometimes it goes to one side and runs crooked. It has cut deeper the present channel probably three to four feet - the top of the bank now, while on the bend it has thrown it up as high as the bank, high as the soil; there it turns again and cuts probably to the other side as the water runs that way, and it throws the sand, a great many places it throws the sand as high as the banks, the present banks now.

Q- Did you have any deposit on your orchard last winter? A- I had about two foot in my orchard



Q - Of what? A - Sand in my orchard; East of my house I had about, probably there is 10 or 15 acres of an orchard there east of my house it filled from - well, 2 up from a foot up to two foot. Some places where they hang in streaks, probably three feet.

Q - What is the heaviest fill you have on any part of your place? A - Well sir I have got places that is over five feet; for about twelve acres I think it would average from three to five feet.

Q - Of what? A - Sand Q - Do you know the difference between sand and what is called slickens, or sediment?

A - Yes sir I think I do.

Q - Well this that you speak of ~~is~~ sand on your place?

A - It is sand. It is a white sand?

Q - What effect has it had on your trees there - your orchard?

A - My trees, it has killed out



all my stone fruit, cherries and peaches and apricots and nectarines, it has killed all of the orchard, all that kind of fruit; pears and apples that can stand the sediments around them, they ain't so easy killed. Still there are some apple trees that have died it being so deep, the roots being so deep in the ground three to four feet, where it has filled up into the branches of the trees or the tree; about four feet high it branches out. Some of them, it has filled up that high, to the branches of the trees, some of those trees have died these last two years.

2- What is the condition of your orchard now?

A- Well my orchard is rather poor now all of my stone fruit being killed out I have got nothing but pears and apples and they are not as healthy as they should be —



2- What reduction if any has there been in the value of your property there since 1867 when you bought it, from these causes? A- In 1867-68 was about the first crash I got off of the place 1868 and '69, '70 and '71 and up probably to '72 my receipts from the sale of fruit from that orchard ran from seven to eight thousand dollars, sold in the Sacramento market. Since that time it has gradually been reduced down till now I don't make more than about -

Mr. Battin (Intg) Sometimes you let your voice fall so we can't hear you here

Mr. Badewalader - Just speak a little louder, Mr. Witness. A- Since 1872 and '3 along there it has been gradually decreasing in the sales, the fruit trees dying out and most all the new trees that were planted out; why they



. didn't thrive in the Soil.  
 the sand they were planted  
 in. It was too sandy and  
 it was too deep to put them  
 all in the black Soil again  
 and consequently they never  
 done well although I attempted  
 to do so by throwing  
 back soil into the hills of  
 sand and tried to raise  
 them that way But they  
 never done well Now it is  
 17-1800 probably I make  
 sometimes upon it and if  
 it happens to be a very  
 good price I might get  
 as much as \$2000. out of  
 it from the sale of the  
 place. Last year I suppose  
 I ran about \$1800.

Mr Callin Q From the products?

A yes sir the products  
 of the orchard in last april  
 two years ago. I had a  
 very thriving Cherry orchard  
 North west of my house where  
 it was protected by an old  
 levee that we were trying



to keep up. They call it the old City levee, Once Street levee I had a very fine cherry orchard that I had grown up on that side. I had 400 trees, and they had grown from six to seven years very fine thriving trees. In April there came a high water in the river. The water was pretty high, but didn't overflow the orchard, but it was high; the water ran so near the surface the bottom, that the water stood in the soil up as high as near the top of the soil. My trees were full of cherries full of foliage, a ver heavy crop was just coming on to them and they was full of cherries at that time. And had it it been for the water in the roots I should have had a very heavy crop of cherries but it just cooked them entirely, the heat of the sun in April come out and



the water stood in the roots of the trees in the ground, and it just cooked them complete. They died right there with the cherries on and the leaves all died, right in there, as well as about four or five hundred peach trees right by the side of them; all died. I dug them all out last spring, dug everything out. I didn't replant the trees because I couldn't do it with any security that they would live at all. The loss was very valuable at that age. They was three trees that would probably yield from 25 to 30 dollars to each tree in cherries. They were just come to the age when they were bearing well, six and seven years; completely destroyed them and the prospect I had.

2 - Take the land between the Sacramento river and the eastern line of Sacramento City, and the A street levee; the American river; are you able to



state how many acres of land have been badly damaged by this same cause in that area since you came there in 1867?

A- Well I am not able to say the number of acres in full, but then I should say there would be in the neighborhood of 800 to a thousand acres probably, taking the scope from the —

Q (Int.) How would that land compare with your land originally? A- When

I first knew it, it was all a kind of black loamy soil with escape of sediments that had come on it before; seemed to be though, very good soil. It produced well in gardens and vegetables and everything at that time.

Q- Was it what is called garden land? A- Yes Sir.

There was <sup>a</sup> great amount, about eighty chuanen was gardening in there, and raising all kinds of vegetables then down towards



the mouth of the American  
River from ~~the~~ below me  
and I was frequently amongst  
the gardens.

Q - What would that  
land be worth, or affected  
by the debris? A - I can  
only judge from the land  
that I personally know what  
it produced, my own land  
as well as my adjoining  
neighbors here. The land  
according to the improvements  
on the land, and everything  
that would have been worth -  
and I believe today without  
the sediment of sand in it  
would be worth \$200 an acre  
at least.

Q - What is its  
value now? A - Well, I  
could not hardly tell what  
the value is. I don't suppose  
that a man wanted to sell it  
right bad - he could get 20  
or \$25 an acre for it with  
the prospect of the sediment on  
it and what may be to come.

Q - What kind of a place is it for  
the habitation of men? A - Well



Sir, the land outside of myself and Mr. Isrenshaw I believe are the only two white persons that is living out there now. except Chinamen, and they all run into town during the floods. They have cabins that they suit inhabit during the winter floods. They have little old huts around the gardens. They are all filled up with water.

Q - Is your house on the mountains?

A - Yes Sir. I raised my house after the flood of 1867. I raised it nearly seven feet - 6 feet and 8 inches from where it originally sat. In the flood of 1868, and then I built a mound around my house of probably the extent of fifty feet clear around the building and filled it up to the wall of the house, which I thought was clear above all high water that would be to come.



Q- Did you have any water last winter? A- Well last winter it came up within about 2 should think about eight inches of my yard.

Mr. Leathin - Of what?

A- About eight inches of running over my present yard from where I have raised it.

Mr. Cadwalader. How was it in your barn? A- Well, the water came in my barn such as it did when I first became owner of it. The water stood in my barn two feet higher than it did in 1868; according to the stalls and the granery, it is inside of the marks that were made of the muddy water.

Q- How much sediment was left in the barn?

A- Well, I should think about three or four inches where the water stood. It settled down.

Q- How deep did the water stand? A- The water was



up about three feet — three to four feet in the barne & stood there probably, I think there was two days or three days — it was in the barne before it went out after it came in.

Q — Is your house on the County Road? A — Yes Sir

Q — Connecting Gisler's bridge with Sacramento City.

A — It is on the direct road leading out what they call the Marysville and Nevada road, across Gisler's bridge stands right beside the road.

Q — What effect have these floods, the floods since 1867 had on that road on both sides of the river?

A — Well it has had a serious effect. During winter times there it has been sometimes a month and two months that it could not be passed for teams travelled, on account of the water standing and crossing the road in sloughs.



across the old grade of the road. A year ago or a little over a year ago, the County raised the road from the original grade, from the City limits now on B. street, north; raised it out to the bridge I was employed to do it as road overseer.

Q - How much did they raise it? A - Raised it from three to four feet; some places three feet, some places four feet.

Q - Well, that was previous to the flood of last winter was it? A - That was previous to this last flood and we also Macadamized it, with stone and gravel on top of the road.

Q - Well, what effect did the flood of last winter have on it? A - It ran over the top of it; didn't wash it away, only in a few places. It cut the grade in two or three places badly;



cut the grade and washed the gravel and the soil that was put on the grade; cut that in two; in three places pretty badly.

Q - How deep did the water stand on that road?

A - Well, the water was on it this year; it covered the whole road. Probably some places you could run a boat, you could run a boat over the grade - a skiff.

Q - For how long a time?

A - Well probably it was not over it all more than 48 hours; probably it was over the whole of it all the way.

Q - Well, how long did the water stand in places on that road?

A - Well it took it about, probably it was ten days before it got down, the water that ran across the road, right on that grade; Nearer the city; in the city limits, there is a bridge across there. It is about six or seven feet



from the ground high. The greatest current ran through there. It ran through there about nearly six months during the winter, came down following the line of the City and the north levee, ran through the willows, and ran under them but the grade was outside. It was down in about ten days.

Q - Do you mean the American river left its bed or a part of the water left its bed and ran over along the side of the A street levee?

A - Oh yes sir; ran along for nearly six months, during the winter and spring, ran over it, anyhow, along in May; there was quite a current - June.

Q - What six months do you mean? What six months?

A - Well, it ran from December along the first rains. I think we had some rains in December; it ran along then -



till - it came around the old channel and cut across between my place and the City, the north levee. It ran through there between Mouth B and Mouth C. It ran there for fully six months from last winter before it stopped the running through. It ran till I think pretty near the first of June, there was some water draining through then; quite a river; a large quantity of water; so a man couldnt ford it, or cross it only the road. I believe it was on the bridge, ran through the sand, a street and willow, cut here and there a heavy place through the willows.

2 - How far is it from Giles' bridge to a street levee?

A - Well, the way the road runs I guess it is a little over half a mile; nearly three quarters.

2 - How about the road on



the other side of the bridge?  
Are you familiar with that?

A- Yes. I was frequently over it. It ran across the roads there all the high water.

Q- Is that also a grade?

A- There is part of it graded and part of it is not.

Q- Well, how far is it graded?

A- Well, there is some places the grade is up probably for two or three hundred feet and then there is some bridge culverts put across other places and graded at each end. Between them places there is water run across, across the road.

Q- Does that grade on the other side connect with the red high lands on the road land? A- It connects partly with the river, the bridge on the other side of it Leslie's bridge, and runs out for some few hundred yards, and then there is a place for water to pass for high



water to pass through. Then again, in other places, before it gets to high land, it is nearly, I suppose it is three quarter of a mile to the high land.

2- Now what was the condition of that, of the road between the high lands and the north end of Lister's bridge last spring? A- Well, it was impassible for a long time. I don't recollect how long. It was impassible for a considerable time.

2- What made it so?

A- What chance. The water running through there.

2- What changes have occurred on the land on the other side of the river since you came to that locality in 1867 and 1868?

A- Well I have seen a good deal of filling in the bottom portion of that land. It has grown up largely in willows and cotton woods.

2- What was the character of that land in 1867 and 68?



A- Well it was a kind of a black soil, kind of an adobe next to the river; alkali soil, black soil, seemed to be a kind of adobe.

Q- Well, valuable for agricultural purposes? A- Well it was cultivated in portions of it. Right next to the bridge and above and below, it was cultivated considerably, above the bridge and below the bridge.

Q- Was it valuable land in those days? A- Well the owners called it valuable land. The Milgate place -

Q- (Lutz) Is it valuable now for agriculture?

A- Well, the most of it is abandoned now for agriculture. The Milgate place is a large place adjoining just below the bridge. That was not cultivated at all last year.

Q- Why? A- Well, it filled up and covered up their trap roats, so deep that they couldn't - they said it wouldn't pay



to undertake to do anything with it. Mr. Flint, I believe was the owner of it, and Mr. Leombs field right at the bridge, it was alfalfa in that, and it covered the alfalfa and there wasn't anything growing on it this year only weeds, that I could see.

Q- Do you know anything about growths of cotton-wood and willows following in the heels of these sand deposits?

A- Oh yes; Since the flood where these sand deposits come it has all come up just as thick as it can be with willows and small cotton-woods, one to five feet high they run up; just full of little willows and cottonwoods.

Q- That is noticeable in all these sand deposits?

(Question objected to as leading, and not pressed)

Q- Are you able to state what the average fill in the bed of the American



river is from its mouth  
five or six miles up stream?

A- Well I should think  
it would average probably  
from twelve to fifteen feet  
in that vicinity; right opposite  
right where the bridge used  
to stand, where it stands  
now, the old bridge stood  
about a hundred yards above  
formerly; I should think  
where the old channel was  
it is over 16 feet high.  
There in the river from bank  
to bank from where it  
originally was when I first  
saw the river.

2- What effect does the  
raising of that river channel  
have upon the agricultural  
capacity of adjacent lands?

A- Well, the river is so  
filled up that the raise of  
the water, it just floods the  
banks and runs from high  
land to high land; that is;  
from the city plain to the high  
lands on the Morris grant  
on the other side, the



plain land. It just scatters all over the bottom; high water floods each side of the river, so you can go from the high lands to the City in a boat frequently, in high water; do, do it; have done it either side.

2- How much higher was the high water mark of last year than 1867?

A- Well, I don't think it was high in some places I have heard of. But it seemed to raise on me from the flow of sand and something. It raised the water. I don't know whether it was as high above as it had been. I think not all the American; It flooded I know from my marks in my barn, it flooded just two feet above the water of 1868 in my barn. I have the marks on the granary and I could tell how deep that was I couldn't tell how deep it was in other places.



Q- What is the character of that water during the high water and flood times?

A- Very heavy, mucky stuff almost black with mud and material.

Q- Will suppose you take a bucketful from the surface?

A- Well Sir, take a bucket full of it. It just looks like thick, almost thick as common cider, something of that kind. Perfectly black with it and settlings in the bottom of a bucket of water would probably be from a quarter to a half an inch and maybe more, in one bucket of water, water bucket full. The deposit settled in my barnyard; this year it settled as high as four inches.

Mr. Cadwalader - I would like to withdraw this witness in order to have the Captain identify this stuff.

(Referring to Specimen)  
The Court - Very well.



Testimony  
of  
Wadsworth Hodyden

Recalled

Mr. Cadwalader - 2 - Captain Hodyden just state what these two packages contain { showing two packages }

A. This one { showing } contains what we call chickens

2 - Is it marked chickens ?

A - Yes sir

Mr. Wilson - 2 The one in paper ?

A - Marked on the paper chickens.

Mr. Cadwalader - 2 Where did that come from ? A. It came off some of my land in Washington Yolo county

2 - When did you take it ?

A This morning

2 - What does the other package contain ? A. A grey sand

Mr. Wilson - Why don't you identify them as one being wrapped in paper and the other in a box



then we won't get them confused.

The witness - The box is marked here sand?

Mr Cadwalader - They are labeled.

Q - Where did you take that from? A - The sand?

Q - Yes

A - I took it from my land about five miles back from -

Q (Int'g) When were those two articles deposited?

A - Last winter, last February March.

Q - During the high water of last winter? A - Yes

Q - This spring rather

A - This spring

Q - Ah Captain I want to ask you this question, when was it that the high water occurred this spring

A - The break\* occurred about the 23<sup>rd</sup> of February, I think

Q - That is, the high water, the last spring occurred the 23<sup>rd</sup> of February?

A - About that time, I don't



remember the date

2- 1881

Mr Catlin - I suppose  
if ~~you~~<sup>we</sup> wish to recall Mr.  
Hodges in regard to this we can do so  
Mr Cadwalader certainly

Mr. Wallace - We want the  
privilege of taking some of this  
Mr. Cadwalader - Certainly, at  
any time he will be here when-  
ever you want him

Mr Catlin - It will remain  
here <sup>the</sup> understanding is, and  
we want to take some portion  
of it for the purpose of ex-  
amining it.

Mr. Cadwalader - All right  
That will do, Captain. now.



Testimony  
of  
James Holland

Recalled for further examination.

Mr. Cadwalader 2. Do you know H. M. Larue?

A. I am well acquainted with him.

The Court - You had ~~better~~ probably have the name of the witness marked on those specimens.

Mr. Catlin - It is W. Hodgden? is marked there on that package {showing} and I will just mark "Hodgden" right on here {referring to the other package}.

Mr. Cadwalader - 2. Ah, before I ask you about the Larue place, I will ask you in regard to the deposit that appears upon the surface of that land that neighborhood after the subsidence of the water. What is the nature of it, not now speaking of the sand, what is the nature of the deposit left after the subsidence



of the water, meaning something else than sand?

A. - Well there is what we call sediments or slickens, they are a kind of finer material that settles in the edges where the water has not any current. It is kind of a fine sediment, slicky mucky stuff.

Q. What are the peculiarities of that before it dries?

A. Well it is very soft and very slicky, a kind of whitish looking -

Q. {Int'g} In going through it would you be apt to lose your boots if they were at all loose?

A. Well, when the water is out of it you can't walk through it very well. It will hang to you pretty close; you can't walk through it until it dries.

Q. Well what is the peculiarity when it dries on the surface?

A. When it dries and gets



into summer it cracks open,  
all breaks and cracks across  
it.

Q Well what proportion of  
the surface, say of deposits of  
this stuff would be rep-  
resented by the cracks?

A Well it varies sometimes;  
it is according to the depth  
of the settlement that has  
settled there.

Q Say from twelve inches  
to two feet.

A Oh, I have seen places  
where it has cracked open  
where I could probably run  
a stick down five or six feet.

I have seen it open where  
these cracks cross around  
and could run down a  
switch or anything like that  
five or six feet in the  
crack.

Q What do you call that?

A Well I call them sed-  
iments or slickens as they call <sup>it</sup>.

Q What effect do they have  
on the land.



4. Well most of these places there where they have filled that way, it leaves a growth of willows; the willows grow very thick through it and rank in them places; I have never cultivated much of them holes— and low places where ~~there~~ there is those sediments come in, then slickens cracked open that way, it seems not to produce anything. A few years it will produce something. I have planted some corn on one or two places where it had cracked open that way, after it had been exposed to the sun, and been flowed a year or two, then it will produce some squashes and some corn.

Mr. Catlin Is that? I didn't quite hear what you said?

Mr. Cadwalader. He said then it would produce some squashes and some corn.

Is But what kind of crops



of squashes and corn compared to the original land.

Alth nothing compared to the original land. The original land would produce most everything, corn and squashes, fruits and everything to abundance. It was a black loam soil, but this other soil don't produce nothing to the old soil.

2<sup>d</sup> Now I was going to ask you about Mr. Laine, you know him, do you?

A Yes sir, I am acquainted with him.

2<sup>d</sup> Do you know his orchards, his peach orchards?

A I have been through it a few years ago.

2<sup>d</sup> Do you know what became of it?

A Well there is no orchard there at all. There is one or two old trees standing there I saw last week; I passed along and I saw one or two.

2<sup>d</sup> Well how many bearing trees, did he have?



Q Well, I never knew that  
 2- Well, about;

A- We had quite a large field and I never ascertained how many. I don't know as I ever ascertained how many acres there was. It was a large field he used to have six peach orchards.

Q- Do you know the character of the fruit that he grew there?  
 A- Mostly peaches. I think nothing more than peaches and some few apples.

Q- Well what kind of peaches?

A- Well they was various qualities of peaches, different kinds of peaches; there were different varieties. I suppose I have seen some very fine heavy clings brought from there, others free

Q- State very briefly if you know what caused the destruction of those peach trees

A. Well the cause of it was the high water, standing on the



ground and the sediments over it killed the trees

2 - ~~Water~~ Water from where

a - Water from the American river

2 - When was the substantially destroyed? a - I don't know exactly the time

2 - About what time:

a - I think there has been hardly anything gathered on them for the last six years. I don't think there has been much fruit gathered there for the last six years. I think a man had rented it about six years ago and I think he failed to make much out of it. The fruit was inferior

2 - It was suggested here the other day that the peach market had failed about the time that peach orchard was destroyed, do you know any thing about that?

a - I have always been able to sell all the peaches at a very good price, that I could raise that I have raised on my place anywhere. I had no



trouble to sell peaches in the market anywhere. There has always been a big demand as long as I had any trees

2- Was Laine's fruit as good as yours?

A- Yes, I suppose it was said to be the first quality of peaches. I raised very fine peaches in that land where I lived.

2- How did you come to Sacramento city?

A- Sir?

2- Did you come to Sacramento city from San Francisco?

A- When I came into the country I came to San Francisco and I came from there to Sacramento on the steamer Hartford; The ocean steamer Hartford up then to Sacramento

2- Do you recollect her build?

A- Well I know ~~that~~ she was built as a sea vessel. I don't recollect particularly all the shape of her; the same as I have seen at sea



2- She was a side-wheeler  
wasnt. she? A- Yes sir

2- Had no guards?

A I did not see no guards.

2- Built like an ocean  
steamer rather than a river  
steamer? A That was an  
ocean steamer

Mr Catlin - Let him describe,  
he was on the steamer and  
saw it and you did not. Let  
him describe the character of  
it.

Mr Cadwalader - I have been on  
the Hartford many times Mr. Catlin

A - On the time I came  
up on her it was in July  
1830. I don't think there was  
any guards at all. I am  
pretty well satisfied there was not

2- You came up in July did  
you? A - I came up  
and got here on the 20<sup>th</sup>  
of July at Sacramento

2- Had you any trouble in  
getting up? A. None whatever

2- What was the condition  
of the river then?



A Well the river was a very fine large river. On the banks all along the river was timber and sycamore and oak and every thing along the river. The river was wide, no sand bars that. I ever recollect seeing. The river was very clear.

2- Any indian ranches when you came up?

A- I don't recollect seeing the ranches. I have seen place where they were what they call indian mounds.

2- What was the condition of the water in the river?

A- Very clear. The water was clear.

2- How were the banks for timber? A- well there was timber all along the banks, sycamore trees principally and some oaks hanging over the water partly.

2- Were you in the habit of travelling up and down the river? A- Well I travelled on the river probably



once or twice a year, I generally went from the mines down to San Francisco once or twice a year. I always went by Steamboat whether from Marysville or from this place, went on steamboats in those times early days.

Q - When did you first begin to notice the changes in the Sacramento river?

A - Ah, I noticed it in 1857 and '8

Q - '57 or '67?

A - '57 and '8

Q - Sir?

A - I noticed some changes in the Yuba and Feather river in 1867 and '8

Q - Well, I mean the Sacramento the Sacramento river below here

A - I recollect passing them times up and down the river, the Sacramento river was clear and the Feather river was muddy

Q - No, but I am not talking about the Feather river, I am talking about the Sacramento



river below here.

A. Below here?

2. Yes sir where did you first notice any changes in that river?

A. Well that was along probably in — well I seen some changes some bars along in there as early as 1867 and '8 - '69

2. How long, according to your recollection, did that continue to run, those large steamers here?

A. Well they ran the steamer — I have seen the steamer New World and the steamer Senator they ran up here till probably I think in — I have seen them up as late, I think as 1874-5-

2. The New world?

A. I have seen the New-world up here, I think since 1875 — about 1875, as late as that I think.

2. Did you see sailing vessels here when you came to Sacramento?



A - I have seen sailing vessels three rigged ships or barks they call them or brigs.

2 - Do you recollect what constituted the harbor of Sacramento in early times; where it commenced?

A - Well, I do not know where it commenced. I landed then on the front of the city, different places; but I don't know anything particularly about the harbor, anything of the kind. I did not live here and stay here in early days long enough till the time I moved and settled here; the wharves then was the landing place in front.

2 - How high up the American river have you been since 1867?

A - I have been up to what is called the San Juan grant, about ten miles by land, I have been up there several times that far.

2 - What changes are noticeable



The San Juan grant starts Mr. Catlin how far? That joins the El Paso?

Mr. Catlin. It is a grant immediately adjoining the El Paso.

A - It joins the El Paso.

Mr. Catlin - It commences about ten miles.

The witness - I have been up about ten or eleven miles, may be twelve. I don't think I have been on the San Juan grant or what is called the San Juan orchard.

Mr. Cadwalader. 2 - Did you notice the condition of the American river as you went up?

A - Well I have in places; and one time during, six years ago while I was up visiting there, I was getting wood, drift wood then from the San Juan bar. I came down the river in a skiff from there one time during that year to look at the water to see if I could drift drift



wood down in place of hauling.

Mr Catlin 2 - What year was it Mr. Holland?

A - It was about six years ago.

Mr. Cadwalader. 2 - How has the condition of the river been growing, the American river since 1867, better or worse?

A - Well, it has been growing worse all the time, all the time flowing up banks, and throwing off sand each side, filling up the bed, and water scattered everywhere when it is high. After it leaves the San Juan grant the canons come in closer there together, highlands.

2 - Have you noticed any tendency on the part of the river to widen its channels the American?

A - Ah yes, it runs out, leaves some places, a great part of the water leaves the original channel and runs through sloughs, and out through



the bottoms in places on each side, frequently, leaves great bodies of water, leaves the channel and runs off in the bottom like through low sloughs, low lands.

Q - I believe you stated that more or less matter has come down every year since 1867 by the floods?

A - Yes sir, most all high waters, bring more or less sand and sediments every year, more or less comes down the river year year, with high water. There has been a few years they did not overflow the lands so much - one or two winters that the American did not overflow its banks to a great extent only where the sloughs were, it ran out

Q - How soon after you get a rain in this neighborhood, and earlier here, is it that it is high water in the American?

A - For instance it rains this



evening very hard; tomorrow morning the water would be a raising considerably.

Q - How much have you known that rise to rise in twelve hours in the night time?

A - I don't know exactly but I have seen it come up mighty fast, probably I expect it has come up two feet in places in twelve hours, from two to four feet. Last winter I know in one night's time when the water was up or this last spring - I was up during the night till twelve o'clock examining around in my yards and my place looking after my stock and from that time till the next morning at daylight it had raised two feet in my barn, because I had my horses tied in the barn at the time and next morning the water was in the barn two feet, horses



standing in their stalls in  
the barn.

## Cross-Examination of James Holland.

Mr. Cathie - 2 - How much  
land Mr. Holland have you got?

A - Well I have sixty five acres

2 - All of it on this side of  
the American river

A - Yes sir; it is all on this  
side of the American river.

It was formerly in  
the City limits.

2 - I am not asking you  
what it formerly was; is  
it all south of this side  
of the road leading to the  
bridge?

A - It is on both sides

2 - How much of it lies  
north and east of the road?

A - I have ten acres lying  
on the north side of the  
road, avenue, in a field



on that side, adjoining Mr. Greenlaw's place and the balance of the sixty five acres lies on the South eastern side.

2 - Ten acres of it is on the north side of the road and fifty five acres of it on the south side?

A - Yes sir.

Mr. Cadwalader Mr. Cathin, I just want to ask him one question I forgot.

2 - Do you know the height of a street levee?

A - No sir I don't

Mr. Cathin, 2 - The height of the A street levee varies very much in different places, does it not? The height of it varies a good deal according to the ground over which it runs, does it not?

A - There was an old street called A street -

2 - Well just answer my question

A - I am trying to find out what you call a street



levee.

2- Well the same levee that Mr. Cadwalade talked to you about. He has talked about the A street levee. I am inquiring about the same one.

Mr. Cadwalade - I mean this levee on which the rail road runs.

A- That is, on B street

2- Well that is what I call a street.

A- A street lies north of that, that is on B street

Mr. Cathin 2- It is what we call the north levee isn't it?

A- North levee, it runs upon what we call B street Mr. Cadwalade. I wish your Honor would bear that in mind that whenever I have spoken of the A street levee, I mean the levee that is occupied by the track of the Central Pacific either at or B there is no other levee there



The Court, The question is what the witness understood I suppose.

Mr. Cadwalader Sir?

The Court. It is more material what the witness understood when he answered

Mr. Cadwalader 2- Well, Mr. Witness there is no other levee is there?

A- None that I know

Mr. Cathie, 2- Mr. Holland what we call the north levee is the levee upon which the Central Pacific railroad goes out from this city and finally crosses the American

A- Yes sir, that is the north levee we call it.

2- After the Central Pacific track <sup>leaves</sup> at the limit and crosses the American that levee continues easterly up to Brighton does it not

A- Yes sir

2- And there is a railroad track <sup>on</sup> and that also?

A- Yes sir, that is so.



2 Now that- is what we call the north levee and there will be no confusion among us if we avoid attempting to describe what particular street it is on, but it is partly on a street and partly on B., is it not, or is it wholly on B.?

A- I don't think it touches a street at all.

2- Very well, it runs out on B. ? A- Yes sir

2- There is only one block difference, it only makes a change of 300 feet? Now this land of yours is between that levee and the American river does it not

A- Yes sir

2- All of it

A- All of it lays in the -

2- (Intg.) Well, that is a sufficient answer. Answer my question. And the neighboring lands that you have been describing as being affected the same way your lands have



been affected, also lie between that levee and the American river do they not?

A - Between the American and the Sacramento on the west, and the American on the north and the city hills on the south.

2 - The levee bounds them on the south and the American river and the Sacramento river you say, bounds them on the west and north. The portion of these lands you have described as bordering on the Sacramento river - what portion of ~~them~~ them?

A - The western portion of it lays on the Sacramento.

2 - Whose lands are those that are on the Sacramento?

A - Well, I understand that Mr. Johnson owns a part of it. J. R. Johnson, Mr. English, and Mr. Beatty, I think owns and Mr. Doherty I think owns the land near the Sacramento.



2- Then those lands that were on the Sacramento river, are they also south of the American river that you speak of?

A- Yes sir they are south of the American river.

2- Now look at that map and point out and describe where the lands are that you say border on the Sacramento, and also on the south side of the American river {showing map}. There is a map, an official map of the city, delineating the rivers as they were in 1830. That was made in March 1830

{Witness points out on map}

2- This land marked Boston on the map, is that a portion of the lands you describe?

A- Yes sir, this is a portion of the lands that I described as Johnson and Dougherty's land and Beatty's,



(pointing out on map)

Q- Does it sit between the Sacramento river and the old bed of the American?

A- Yes Sir it lays in there.  
Mr. Wilson - I suppose that is called Boston because it is the shape of a hub.

Mr. Bathin - Well the truth is somebody laid out a paper town there and named it.

Boston. That is the reason Boston came to be on that map in 1850, I have seen the plat of it at an early day.

Q- Now the 800 acres that you speak of embrace the lands described on this map as Boston?

A- I can't say that it is 800 or a thousand. It may be more or less.

Q- Well, I say the lands you described to Mr. Badwalder as being about 800 or a thousand acres include the portion of this map



described as Boston, the portion described there as arable land and run from thence up to a place marked "Ferry" here!

A- Yes Sir, running from there up to here (pointing)

L- Run up to where there is an arrow in the stream?

H- Run up to this bend here (showing). Twenty first street would be there.

L- Running up to where Twenty first Street on this map intersects the American river and from thence down the margins of the American taking in a piece of land called Arable land and the piece of land marked Boston.

Are the lands which you described in your direct examination as being about 800 or a thousand acres which have been acquired in the manner you described?

A- Yes Sir, that is about my view of it

L- As I understood you



you went to the mines in 1860?

A - Yes Sir.

Q - And remained in the mines engaged in mining and other business I suppose perhaps, for fourteen years?

A - I remained about fourteen years. I think fifteen-fourteen or fifteen.

Q - Were you engaged in mining mostly?

A - I was engaged in mining that was my occupation up to that time.

Q - Where did you dump your tailings?

A - Well I surface mined mostly, in ravines or gulches wherever I was mining.

Q - What rivers?

A - Mostly into the Deer Creek the mining and in the Yuba's, the North Yuba, the middle Yuba and the South Yuba - my principle mining was done in that range.

Q - The Yuba into the



Feather river.

A - Yes sir

Q - And the Feather river into the Sacramento about thirty miles above here?

A - Yes sir.

Q - You came to the city in 1867 to live?

A - I came here in November 1867.

Q - That is, when you settled here? A - That is when I made a purchase and settled in Sacramento.

Q - And you have resided here ever since? A - Yes sir, that is my home ever since I have resided there. That is my home.

Q - When you came here did you find this north levee here that is here now? A - Yes sir.

Q - With the railroad track on it? A - Well, when I came here I don't think there was much of a railroad track on it. I can not recollect now positively about it, but I



know the north levee was there

2- Didn't the Central Pacific railroad track run out over that- levee and cross it near the same point where it does now? A- Yes sir.

2- In 1867? A- Yes sir, it ran there from the time that- I -

2- {Intg} Then there must have been a railroad track on it? A- I think there was even at that time or near that time. I think there was a track on it at that-time if I mistake not.

2- That levee is a large high, strong levee is it not? A- Yes, it was considered a fair levee. It was pretty large at the base and come up to a-

2 {Intg} Well you can give some idea of the width and base of it. Give us some idea about it



A - I never made any measurement but I suppose it was forty feet probably or fifty may be more. The base of it is fifty feet probably more.

2 - About how wide at the top generally? A - Well they have been widening out at different times. I could not say.

It is probably -

2 - {Intg} wide enough for two railroad tracks!

A - Eight and four is twelve, it is anyhow fourteen feet on the top, I should suppose.

2 - You had a cherry orchard you say three years ago last April?

A - Yes sir.

2 - Which was then about five years old?

A - Five and six.

2 - Wasnt that cherry orchard planted upon some of this material that is called sediment or slickens?

A - No sir, the roots all stood in the black soil.



I set it into the black soil. There was some sand, some slickens, or what they call sediment, soil that settled there from back water.

2 - The roots run down into the black soil?

A - Ah I set the roots in the black soil.

2 - But your land was covered with a sedimentary deposit?

A - yes sir

2 - At that time when you planted that?

A - There was some sediment on the top of the soil probably. I think about four or six inches on that field.

2 - Wasn't it a good deal more than four to six inches?

A - Well it was in little places but take the average of where my cherries set, was a high piece of land and it <sup>was</sup> covered by the levee on Vine street.

2 - How? A - The levee



on Vine street, the old levee protected that - and it never filled there very much.

2 - That sediment was a fine yellowish material, was it not?

A - That was on the north field where I set this cherry orchard, it was north of the river.

2 - Did you have any other fruit trees planted in that same kind of material?

A - Well there was part of that that was in pears and was in a peach orchard when I first bought the place. That was in a peach orchard.

2 - When you first bought the place was there some of that material on it?

A - Well there was a little yes sir, there was a small skiff of it on that field.

2 - A small skip of it?

A - Yes probably four or five inches



2 - Wasn't there more than four or five inches?

A - I don't think there was in that field.

2 - In the other field?

A - In the other field there was probably a little more than that on the upper orchard near the river.

2 - Near the river there was more?

A - Yes sir, near the ~~river~~ river.

2 - Would it average a foot or eighteen inches deep in that other field below the river?

A - No some places when I first got it, it was in a vineyard, in trees and a vineyard, and they plowed in the soil. You could plow up, in places you could plow up the soil.

2 - In some places you could reach the black soil in plowing?

A - Yes, in a good many places, in plowing the crops



I noticed.

Q- In some places you could reach with the pole the back sail?

A- Well there probably was some places that I could not, when it was over six inches.

Q- Now Mr. Halland since your residence here, you must have been a general observer to some extent. I will ask you whether or not you have observed this fact, that these levees, taking the north levee for one, and the levees on the Sacramento and this graded road running from the bridge to the high land, high ground. do they not make the water higher above by acting as obstructions or dams in the way of its passage down.

A- Well in running this grade it don't run quite parallel with the levee till it comes to Twelfth street. It runs a little angling



more north eastwardly, probably  
 three block or four blocks  
 Probably from where it  
 enters Twelfth street, it was  
 near four blocks, till it gets  
 to the bridge, angling across  
 towards the river from  
 being straight with the north  
 river and the water comes  
 down to Twelfth street. It runs  
 right across Twelfth street into  
 a slough what is called old  
 China Slough I think. It  
 empties right in here into  
 what was called old China  
 Slough. There is not more  
 than the pressure of from  
 the angle of that grade to  
 the road, not more than  
 three blocks

I- I am inclined to  
 think you have forgotten  
 what the <sup>question</sup> pressure was that  
 I put to you. I will repeat  
 my question and then you  
 can understand it.

Does not the north  
 levee and the other levees



on the Sacramento river and this graded road from Leslie's bridge obstruct the flow of the water and make it higher above and make the water flow higher over the bottom lands.

A- Well since as I understand that north levee-

2- (Ditz) Will you answer that question?

H- Well I can't say whether it does or not because the levee has been washed away since I have been there the first year and I could not say that it throws it back higher because the levee that was formerly at Vine Street and to the railroad levee was entirely carried away. The first year that I came there and since that there is no levee across from C. to B street north of A street, it has been open all the time. There has been a low



current of river running through and consequently-

Q (Intg) Before that levee was washed away that you speak of- you speak of the levee on Vine Street or out there somewhere, while that levee was standing, didn't it operate as a dam against the waters above and back it until it was finally carried away?

A- Well, it would not act a great deal because it ran parallel with the river, pretty much all the way around.

Q- Doesn't this north levee when the water is up against it, doesn't it throw the water back?

A- It holds the water of course from the side of the low grounds inside the levee.

Q- Isn't it a matter of fact that is well known to you and all the residents



are the levees that these levees cause the water to flow higher and back clear up to Brighton?

A. Well, I can't say that it did back it from the slope of those levees because it runs right towards Brighton there parallel with it, and it could not possibly back it. The north levee could not possibly back it to Brighton when it runs almost parallel with the line to Brighton, that is near the river.

Q - Let the water backed up to, say, on John Rooney's land near Brighton.

A - Well from the Railroad bridge up there. I can't tell much. I am not much acquainted with that side on the Brighton side there.

Q - You are not much acquainted above the bridge.

A - Not on the Brighton



side.

Q- The Brighton side is the south-side of the American river.

A- Yes Sir

Q- The same side we are in now

A- Yes Sir

Q- And the same side that your lands are on

A- Yes Sir, the river, close to the Railroad bridge runs almost to the levee there when it turns off, and then it makes a little kind of eastward until it strikes the highland at Brighton, I have been on it once so that levee from there up and I think that was the only time I ever was

Q- When the Sacramento is high and the American is high, when we have what is called high water do not these levees obstruct the passage of the water and cause the water to back up and overflow to a



greater degree than it otherwise would?

A- I think it would where the water comes against the levee I think it breaks the-

Q- {Int'g} Don't the water frequently come against the north levee?

A- Yes it does often up pretty high on it sometimes

Q- How high was it against the north levee, last winter?

A- Well, I did not never measure it, how high it was

Q- How high did it appear to your eye as you looked out, did you see it?

A- Well, it looked like it was two feet on the top of the levee or three feet, two or three feet along the levee to look at it just with the eye, but probably it was not quite so much. I never made any estimate or measure.



Q. In describing this soil that is ordinarily termed sediment or slickens, you say it cracks after it gets dry in the sun? A. Yes sir.

Q. Have you not observed that the old adobe soil cracked in the same way?

A. Yes, I have seen this black adobe land crack open but only in small just little chips like. I never seen it crack =

Q. {Intg} That contraction is simply caused, is it, or that cracking by the contraction of the soil when the moisture is either sunk below, or evaporated above it?

A. Yes in drawing out water it contracts and this black adobe as they call it, it runs in cracks but not like sediment.

Q. After it is so cracked can it not be so plowed up and cracked with the plow?



A- Yes. I suppose it often is done.

Q- Can't that be plowed and pulverized more readily than the natural adobe soil by the plow?

A- Ah yes, it can be plowed after it once becomes dry?

Q- You can plow adobe soil after it gets dry can't you?

A- After it ~~has~~ settled, when it is once dry you can plow that up, but it stands in cakes ~~to~~ till it becomes decomposed by the action of the sun - before it will mellow up at all.

Q- If you don't disturb it with the plow it will show these cracks?

A- Yes sir it will show them cracks probably, I have seen them four inches wide

Q- Did you ever see a crack four inches wide on adobe soil?

A- I don't think I ever did



Q Did you ever see much adobe soil?

A I have been over some of it; a good deal of it at different times.

Q This originally, as I understand you, was black adobe soil?

A No, this land, where I am living, it was all a black loam, I don't think there is any adobe soil on that side of the river, that I know of.

None that I knew of on the south side of the river.

Q Are you much acquainted with the condition of the land known as Larue's place that was formerly Larue's land?

A Well I am just this much acquainted with it I have been there several times when Larue lived there.

Q Well now when did Larue leave that place.

A I could not exactly say  
Q I will ask you whether



it was not twelve or fifteen years ago that Laure quit there? A- No Sir it was not long after I settled on the American river. It was a few years after that. It must have been along about 1870. 1869 to 1870. I think it was sometime in 1870 or '71 that the family moved there.

Q- You say you have seen the New World up here as late as 1875-

A- I think it was as late as that I have seen her lying at the wharf. I think it was as late as that.

Q- Have you see the New World in Sacramento within ten years?

A- I think I have. I have seen her lying at the wharf and the re-modelling of her several times as late as 1875

Q- Has she been running on the river



any time

A- Well she has been running up a great many times

Q- Within ten years?

A- Well I have seen her come up the river within ten years

Q- Now when you came up the river you came up on the Hartford?

A- Yes Sir I came up on the Steamer Hartford.

Q- That was in 1850 and the water was clear and there were trees on the banks of the river; I ask you whether the banks of the river were not thickly grown with willows hanging over?

A- Well in some places they were, in some places it was merely bank with the water running to the trees

Q- Wasnt the greater part of the banks covered with a heavy growth of willows?

A- I dont think



there was right next to the water. It seemed to be large timber mostly right next to the water and I recollect seeing fishing boats and all that along those places at the time which makes me recollect it. I thought it was a very beautiful river when I got into it.

2- Were the willows about as high as say ten feet or twelve; from six to twelve feet high very thickly growing along the banks?

A- I suppose there was willows, I could not say how particularly because I didn't pay so particular attention about what the growth was, only I ~~was~~ saw these big trees hanging over the water frequently all along the river.

2- Now from the bank of the river at the bridge how far is it that this graded road runs, what is



the length of this graded road running from the graded road across on the other side?

A - Well it runs to my house and I think it is about -

I (Intg) No, on the other side, the part on the other side of the river

A - The north side?

I - Yes, the other side from here is the north side

A - On the north side into the American that grade is graded in three different places.

I - What is the length of it, taking that altogether from the other side of the river from the bridge?

A - Well I never measured it and I could not tell.

I - Well about?

A - Well I think there is two currents about fifty feet in length maybe seventy five I think there is one, maybe



one hundred feet in length and I think the other is seventy five and then it is thrown up on each end of the banks on the abutments of the bridge is graded up for some little distance off.

Q- How long a distance how many feet?

A- Just enough to make it a good travel on it.

Q- I am wanting to get some idea of the distance that this graded road runs including the bridges, count the bridges graded up with earth and the part that is compassed of bridges and add them together and what is the distance?

A- Well I should think it would be over three hundred yards take it altogether the bridges and the grade.

Q- Now you say that in describing some of these sand drifts along the bank of the river, this gray sand,



you recognized that as sand from the mines?

A - Well I recognize it in this way. I have always held it came from up the river along from the mines. I think it was ~~mining~~<sup>mining</sup> sand from the looks of it.

Q - Where in the mines would you see that kind of sand?

A - Well I have not seen it in particular on the American. I have seen it at Dutch Flat, and other places and along where the hydraulic mines are and I have seen similar -

Q (Intg) Seen similar sands?

A - Yes Sir, similar sediments in the washings.

Q - In the mines, in the banks?

A - I have seen it in the hills. I have seen where they hydrauliced at Dutch Flat and that Gold Run up there on the railroad. I have seen



Q - Are there hydraulic marks in that kind of sand?

A - It is soil and the finer sand sifts out and runs with the water.

Q - Tell me how you recognized those particles of sand that you saw at Dutch Flat?

A - I only recognize it this way, as it is the same kind of sediment, sand, that comes out of the soil, the sand is similar.

Q - Might not this sand have come from the bars in the American river from between here and Folsom?

A - No sir never that quantity of sand.

Q ( Why could not they come from Mississippi bar?

A - It could not have come from there because there is too much of it.

Q - What?

A - There never could have come that amount of it because



it never has been washed  
in there.

Q Are you well acquainted  
with Mississippi Bar?

A- I have been up to the  
San Juan grant. I have  
never been further than that  
and I think Mississippi  
bar is a few miles above  
that place.

Q- Have you ever been on  
Mississippi bar?

A- No I don't think I have

Q- Very well, if you  
have never been on Missis-  
sippi bar, you don't know any-  
thing about its extent.

A- I don't know the  
American river farther than  
I have been up

Q- How do you know this  
sand did not come  
from the Mississippi Bar.

A- I expect some of it did.  
I suppose some of it ~~did~~ would  
come from all parts of the  
river.

Q Then you expect some of



it did?

A - I expect some of it did come from there.

Q - You merely mean to say this Mr. Holland: that this sand that you saw there in the mouth of the American river, you supposed by reasoning on the subject that it came down the river.

A - Came down the river certainly.

Q - Came down all the ~~river~~ rivers? A - Of course it came down the river and its tributaries I am satisfied of that because it could not come from any other place.

Q - Have you any reason to suppose that any more came down the north fork than from the south fork?

A - I could not say how much came from either one because I am not acquainted with the north



fork or the south fork.

Q- You don't know where it came from except-

A. Put 'g. It came down the river. It came from the river.

Q- Do you know where Fanner's Diggins is?

A. ~~Yes~~ Sir?

Q- Do you know of a mining camp known as Fanner's Diggins that were extensively worked in 1850 and 1858?

A. I don't know anything about mines on the American river, farther than I have seen some mining done as far up as San Juan. I have seen where there has been a little surface mining that far in the gravel bars.

Q- You have seen the mines on the American river on the north side within ten miles of this city haven't you.



Q - I have seen where they did wash I didn't see any washing. I have seen where they did mine.

Q - Seen their tailings and where they had been washing?

A - Seen their piles of rocks and tailings thrown up on the bars where they had been washed by rockers or chinamen or somebody had washed it

Q - Right at the north boundary of the El Paso and the south boundary of the San Juan?

A - Yes sir.

Q - About ten miles up the river A - About ten or twelve miles

Q - The American river on the north side? A - Yes sir

Q - From there above you have no acquaintance with the mines.

A - I have no acquaintance, I have never mined on the river or on the tributaries I never mined on them



2. Now from 1867 until about then or four years ago did you not cultivate your land very successfully and very profitably?

A. I have not cultivated it very profitably only in trees; the trees that were standing. On part of it, on the South Eastern portion of it, since I have bought the place, I have sown it in Alfalfa several times and I could get probably some tolerably fair stand but the next winter the water would come over it and cover it up again and I could never get a crop to stand in time.

2. When did you raise Alfalfa there?

A. I had some alfalfa before this last flood. I had a tolerably fair stand in portions of it.

2. You had a tolerably fair stand of alfalfa two years ago then?

A. Yes, I had some alfalfa



in a pasture field; I had some alfalfa on it

Q. You did not have any opportunity personally to observe the effects of what is called the big flood of December 1861 and January 1862?

A. No, I was not here then. I ~~did~~ went to the Atlantic States that winter and I was not here during the high water

Q. I want to get a little better understanding from you in regard to the place where Chai water ran for six months in the year, between North A and North B. Streets. Where did that water discharge?

A. It discharged in China Slough

Q. What slough?

A. What is called China Slough back here. It dis-  
charged into that

Q. China Slough is marked Sutter Lake here, is it not?  
let us see if it is identified



on this map. It is this  
slough out here that is  
partially filled up by the  
Railroad Company.

A. Yes. It comes down into  
this slough below ~~Third~~ <sup>Third</sup> Street  
and runs up much farther,  
up toward 12<sup>th</sup> Street.

(The witness here described the  
location of the slough on the  
map). It follows down in  
the direction of Vine Street  
coming right down the north  
levee outside of Ryders. It  
does not exactly turn out  
on A., because there is a  
point of the levee runs off  
on B. Street and throws it  
off out by A. Street. It  
comes down between North  
B and north C. Streets now  
The Current runs as far  
down until it strikes 12<sup>th</sup>  
Street

2. And then it comes down  
into this slough.

A. It comes down into  
this slough



Q. Sutter Lake has no Outlet now has it?

A. There are railroad shops down there. I think there is an outlet down there, but there are railroad shops lying in a portion of that space, where it is graded up.

Q. Is there any outlet of Sutter Lake or China Slough as you call it, into either the Sacramento or American river?

Mr. Cadwalader. China Slough is not Sutter Lake.

Mr. Catlin. Yes it is. Witness. Where the water goes now is outside of the railroad shops. It runs into the Sacramento just above what is called Gibboom Street.

Mr. Catlin. I. Let us have an understanding about that Mr. Cadwalader. Do you say there is a China Slough other than that known as



Sutter Lake?

Mr. Cadwalader. Yes. Here is China Slough and here is Sutter Lake (pointing on the map) Mr Wilson. What you call China Slough Mr Cadwalader is called Willow Lake on the map.

Witness Well, this water comes right down from here and empties in to this Slough. I always called it China Slough.

Mr. Catlin. That is what you mean by China Slough?

A. Yes, that is what I mean as China Slough. I always call it China Slough.

Q. The place marked on this map as Willow Slough is what you call China Slough?

A. That is what I call China Slough.

Q. Now describe what this dark line on the map is?

A. I would call that the North levee.

Q. That is the line of the



leave is it?

A. That is the line of the levee running north of the railroad. It is pretty high here, on a portion of A. Street. The Court. That is on B Street. Mr. Catlin. I see. But according to this it is on A Street.

Mr. Cadwalader. That map was made in 1854 but you can see where B Street is.

Mr. Catlin. That line from there down is on A Street, and the railroad is on this Street, one block off, and that is the old line of Jutter's Enclave.

Mr. Cadwalader. In 1839; where Jutter cultivated Wheat.

Mr. Catlin. What I want to get at is this: That stream that you spoke of runs into that place on that map marked Willow Slough and which you designate as China Slough.



A. Well most of the water that comes down now from north of the levee —

Q. (Interrupting) Answer my question. Is that the place where it discharges?

A. It is now

Q. Where does it go to after it goes in there?

A. Well it goes out north of the railroad shops <sup>right into</sup> ~~into~~ <sup>the</sup> Sacramento

Q. Into the old bed of the American river?

A. I suppose it is in the old bed. There is where the water enters the Sacramento

Q. The old bed of the American river is filled up you say clear to the top?

A. Its bed. There is a slough in there the Chinese wash in

Q. How much water was flowing through that in the spring?

A. There was a time I thought there was a third of the river running through there



2. I am asking about in the Spring?

A. There was a large stream ran through there. It was probably in some places fifty feet wide.

2. It is all outside of the north levee is it not?

A. Yes.

Mr. Cadwalader How deep?

A. It runs about two and a half or three feet in depth there along in the Spring.

Mr. Cablin. And it went to Sutter Lake?

A. What I call China Slough. Sutter Lake is farther in. I think it runs into this Slough (pointing).

2. Do you know where it runs or which Slough it runs into?

A. Yes, it runs into this Slough which is Marked Willow Slough; Willow Slough I think it is called.

2. That is the place where the Chinamen wash clothing.

A. Yes, where they wash



Q. Is not that slough filled up very much by deposits from the river?

A. It is filled up considerably with deposits. It used to be a deep slough when I first came there.

Q. It is now nearly filled up?

A. It is grown up in willows and pretty nearly filled up.

Q. What is it filled up with?

A. It is mud and sand of one description or another. I see a good deal of sediment there; shakers, mud it seems to be principally; and I see a good deal of sand that is with now

Re. direct Examination  
of  
James Holland

Mr. Cadwalader. You say that the mining you did was principally surface mining?



A. It was principally surface mining except two years I hy draulicked in North Bloomfield in Nevada County

Q. You were familiar then with that kind of business were you?

A. Yes, I was pretty well acquainted with it up to that time

Q. You told Mr. Catlin you had also seen the hy draulic mines at Dutch Flat and Gold Run?

A. I have seen them mining there, have seen the banks. I have seen a great deal where it was mined and seen a good deal of mining done, but I never did much of it except in 1858 and 1859 when I hy draulicked mined at North Bloomfield

Q. But you saw this kind of business going on at Gold Run and Dutch Flat?

A. Yes, I have seen it going



on there and at other places  
 2. And you recognize this  
 land which you saw on your  
 place in 1867 —

Mr. Catlin. We object to  
 this repetition

Witness. I think it is the  
 same kind of land lifted out  
Mr. Cadwalader. Mr. Catlin  
 asked you about John Rooney's  
 land

A. I have not been on John  
 Rooney's land

2. I will ask you whether John  
 Rooney's land is not fully  
 one mile from the Sacramento  
 City levees?

A. I should think it was. I  
 have been up to Brighton on  
 the road, but not on John  
 Rooney's land

2. It is fully five miles  
 from this Court House is it  
 not?

Mr. Catlin. We object to that  
 statement and also object  
 to any re-examination of the  
 witness on the subject



Mr. Cadwalader You say you have not been upon that land?

A. I have not been on the land. I have been on the Brighton road from the city. I have been out J. street on the Brighton road across the levee and up to Brighton

2. How far is Rooney's land from the eastern part of the Sacramento levee system?

Mr. Catlin. We object to that question as being so indefinite that it can not be understood by any body (to witness) Do you know what he means by it?

Witness. I can not tell how far it is. I have been at what is called the "Old Sugar Works" and I have looked from the levee right there and seen John Rooney's place off to the left as you go up; and that is all that I know in regard to his place

Mr. Cadwalader. Mr. Catlin asked you whether the tendency



Of the levees of Sacramento City was not to back the water of the American. I will ask whether the levees are not on an average about half a mile, or four quarter to half a mile, from the river banks?

A. Except at the railroad bridge.

Q. How far there?

A. Probably quarter of a mile there; it used to be. I have not been there for some time.

Q. I will ask you whether the Sacramento levees do not run parallel with the general course of the American river?

A. I think the levee does; except but from the railroad levee out to Brighton I can not tell exactly where the river runs, for I was never down on the river right there on the south side and I could not tell exactly where the river lay or how much the levee



ran with it

2. Mr. Catlin asked you about mining on Mississippi Bar?  
What is Mississippi Bar?  
A bar in the river?

A. Well, as I understand it what they call a bar is a flat.

2. In the river bed?

A. On the side of the river  
Mr. Catlin. You have never seen Mississippi Bar, and how can you undertake to describe it

Witness. Mr. Cadwalader asked me what I think a bar is

2. Have you ever been to Mississippi Bar? Did you not say you had not?

A. I have never been to Mississippi Bar.

Mr. Cadwalader. The witness said he saw the mining at some places on the American river

A. I saw where they were mining or where they had been



mining on San Juan Bar.  
I saw where they had been  
mining in these bars; I  
saw the gravel piles and  
the stones where they had  
been thrown off on the bar—  
what is called the bar—  
a flat, a gravelly bar.

Q. Was that mining in a  
large or small way?

A. It was small mining.  
It was not any extent of  
mining; but just like sur-  
face mining I think.

Q. Do you understand what  
bar mining is?

A. What I call a bar is  
this: I have always understood  
on the river that a bar is  
where there is a flat on one  
side of the river and the  
bank of the river; that is  
called a bar.

Q. And bar mining is mining  
on those bars?

A. Yes, that is the way I  
always called it when I was  
mining.



Mr. Catlin. Do you know whether the mining on the Mississippi Bar is of the character just described by Mr. Cadwalader?

A. No sir I do not

— " —

## Testimony of A. S. Greenlaw recalled

Mr. Cadwalader G. You were asked yesterday to take and produce certain samples of certain earths, sand shingles and sediment. Just I take what you have there and whether the things are labelled?

A. They are labelled inside

Q. Suppose we have those labels pasted on the outside?

A. I did not have the conveniences at home for putting them on the outside (By direction of Counsel the Clerk pasted the labels on the outside of samples produced)



by witness)

Mr. Cadwalader. Just take that sample in your hand and state where it came from. ("No. 1 A.S.G. — Deposit of 1862 on Lands of Secular")

Describe what that is in your own terms and state where it came from?

A. This is soil that came from my place north of the City of Sacramento, distant about fifty rods from the American River.

2. What do you call it?

A. It is a deposit made there in 1862

2. Now take the next sample in your hand, state what it is, where it came from and when it was deposited? ("No. 2 A.S.G. — Original Soil")

A. This is Earthy substance, Soil, that came from the same place, my place north of the City of Sacramento, about fifty rods from the American, between the city of Sacramento



and the American river, and  
 is the original soil as it was  
 when I first settled there  
Mr. Catlin. Where do you  
 say this second specimen  
 was taken from?

A. This last specimen which  
 I described is from my  
 place north of the City  
 of Sacramento and about  
 fifty rods from the present  
 American river

Q. Which side of the Amer-  
 ican river?

A. It is south of the Amer-  
 ican. Between the American  
 River and the City of Sacramento.

Q. Where did the first one  
 come from?

A. It came from the same place;  
 a little distant because I  
 had to dig

Q. How far from the point  
 where the first specimen was  
 taken?

A. Eight or ten rods. I took  
 this from an excavation,  
 where I had excavated for



a levee. It was more convenient to get at it there; I did not have to dig so deep; and I took it from there as a matter of convenience.

Mr. Cadwalader. Explain what the next is and where it came from ("No. 3 all. — Deposits since 1870")

A. This that I hold in my hand was taken from the same place of the black soil. All of these specimens were taken from the same field and within a few rods of each other.

Q. State what this last sample marked No. 3 is?

A. This marked No. 3 is earthy deposit on that ground. It is an earthy deposit, deposited since 1870.

Q. At what place?

A. On the lands of A. S. Greenlaw lying north of the City of Sacramento and south of the American, about fifty rods Mr. Catlin. The same place



you spoke of.

A. I named that before, but Mr. Cadwalader asked me to describe the place.

Mr. Cadwalader. Deposited by water? A water deposit?

A. Yes, water deposit.

2. Take the next (No. 4

A. S. G. — Sand covering portion of land north of Sacramento City near American river.)

A. This that I hold in my hands came from the same lands only at a point nearer to the river.

Mr. Cablin. That is No. 4.

A. Yes. This was taken at a distance from the American river of about thirty-five or forty rods. I did not measure the distance.

Mr. Cadwalader. When was that deposited the last winter, and is sand.

2. When was No 3 deposited?

A. That is a deposit that has accumulated on my land since the year 1870.

Mr. Cable



Mr. Catlin? At different periods since that time.

A. Yes.

Mr. Cadwalader? Have you any thing else there?

A. Yes.

The Court. Is this the same species of sand found in the bed of the river?

A. It is. Perhaps it is not quite so coarse.

Mr. Cadwalader. Take the next and explain what it is, where it came from, and at what time? (No. 5 A.S. 9. - Sediment that settles in low places as the water recedes, sometimes called "shikens")

A. That substance was taken from near the bank of the American river, on lands of Scott, near to the bank of the river, and deposited there by the river. It is directly north of my place.

2. Deposited when?

A. This deposit was made in the last winter.

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Q. That is what you call slickens<sup>r</sup>. That is what you call the ventable slickens is it<sup>r</sup>.

A. I hardly know what the term slickens means. There are different deposits. There is a deposit that is lighter than that; and it is sometimes darker, and sometimes more red. I do not know the component parts of these different matters.

Q. You have already described I believe the effects which the materials in specimens numbered 2, 3, 4, 5 have upon the land, have you not<sup>r</sup>?

A. Yes. I made that statement in my testimony yesterday.

Q. In your testimony of yesterday did you refer to the effect that the deposit of this specimen had (showing)

A. This is the deposit of 1862

Q. I have made a mistake.



My last question should have related only to specimens #. 3. 4. 5. I will ask you whether in your testimony of yesterday, you did not describe the effect upon land produced by deposits of such stuff as you find in specimens 3. 4. 5. &.

A. Yes.

Q. No. 2. I believe you say represents the original soil?

A. Yes.

Q. You described that yesterday, did you?

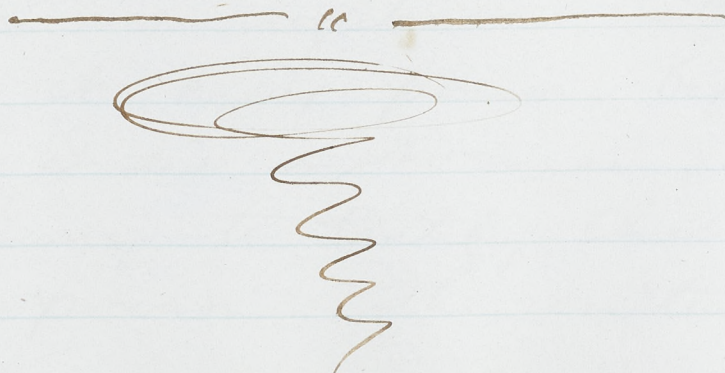
A. Yes.

Q. Did you say anything in your testimony about No. 1, which is the deposit of 1862.

A. I did.

Q. You described what effect that had, if any?

A. Yes.





# Crops - Examination of A. S. Greenlaw

Mr. Catlin. Which one of those specimens is it that contains the poisonous substance of which you spoke?

A. No. 3 -

Q. No. 3, is the one which contains the poisonous substance which you refer to in your testimony?

A. Yes. That is what causes the failure of the crops the flow of that on the land.

Q. That came from your land did it?

A. It did. If my testimony leads to your question, I would like to correct it this far: I simply want to correct my testimony of yesterday, if you are right in asking this; as to it being poison, by saying that I did not mean in my testimony to testify that that was poison. The content of



my testimony yesterday was that there was a failure of crop owing to that covering of the land

Mr. Hart. Failure of what?

A. There was a continual failure of crop until the land became incapable of producing a crop

Mr. Catlin. Whereabouts on your land did you take deposit number 3 from?

A. I can describe it by block on the map, for I know the block it is on. You will find where I took that deposit, from the block marked on the map as North F and G. 13 and 14, North of Sacramento. It is near the land of Holland between Hollands fence and my house

2. <sup>Is it</sup> On the near portion of your land back from the river?

A. It is about three hundred feet from Vine Street

2. That is not answering my question. Is it on the



rear portion of your land?  
 Your land fronts on the river  
 and runs back.

A. My land fronts on the  
 street called Ucie Street from  
 this bank.

Q. Does not your land front  
 on the American river?

A. My land borders on the  
 tract of land marked "Arable  
 land" on that map.

Q. I do not know where  
 Ucie Street is. I am asking  
 you whether it is on the  
 rear portion of your land or  
 the front portion of it?

A. I will tell you that  
 the highest portion of my land  
 runs upon a bank.

Q. But answer this ques-  
 tion that I put to you, directly.  
 Is it on the rear portion of  
 your land or the front por-  
 tion of it?

A. If you call the front  
 towards Sacramento City it is  
 on the rear. If you call  
 the front facing towards the

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American river, it is on the front. It is on the North Side of the ranch.

2. On the front part of your land?

A. It is on the north side of my ranch.

2. On the front part of your land fronting on the American river

A. My land does not join and is not bounded by the American river. My land does not extend to the American river by forty rods or by forty five rods. There is from forty five to forty eight rods from my land across the arable land before you come to the American river. If Mr Cadwalader will allow me I will describe exactly on that map where it is.

2. I simply ask this: Considering that your land fronts either on the American river or towards the American river



is it on the front portion of your land or the rear portion of your land

Mr. Hunt. I object on the ground that the question has been fully answered already, and I do not think the Counsel has a right to take up the time of this Court in gratifying simply a whim of his own. The witness says it is on the north side The Court. Let the witness answer the question again.

A. I said, if you call facing toward the American river the front it was within three hundred feet, or between three and four hundred feet, of that line, of the front line.

Mr. Catlin. That deposit has been accumulating there at various times since 1870?

A. Yes.

Q. In large or small quantities?

A. Well occasionally, fine



years, from one to two or three inches; unless there was extreme high water such as we had last winter. I went below last winter's deposit; that sample is not last winter's deposit; the deposit on that ground varies in places one foot, in places two feet

2. Of that kind (showing)

A. No. it was more of sand this last winter

2. I am directing your attention directly to No. 3.

A. No. 3. - Yes

2. And I asked you whether it was deposited in large quantities or small. You commenced answering that

A - Yes. By saying that it has been deposited there for ten years; some years not more than half an inch, when it would lie and curl up on the top of the ground; other years perhaps two inches and three



inches according to the height of the water and the amount of deposit and water that came down over the land.

2. How much of that deposit No. 3 has there accumulated altogether during the ten years?

A. Of that No. 3? In places there has been ten inches, perhaps a foot; in other places less. I have not measured all over my ground to know just how deep that deposit is.

2. What is the character of that deposit of 1862, Sample No 1?

A. The character of deposit marked No 1 is that it is of a ~~productive~~ nature. I know it from the fact that I have raised good crops upon the land, but I have never analysed it and cannot tell of what it is composed.



Mr. Hart. This has all been testified to before by this witness. I do not see the necessity of a long examination to find out what the witness testified to yesterday.

Mr. Catlin. Why did you not bring as a dried specimen of the substance that you call slickens, instead of that which you show here.

A. I did not have it. It was not convenient to get it. I went to the bank of the river to procure this.

Q. It was not convenient for you to bring a dry specimen? A. No.

Q. Can not you find plenty of it now?

A. No, not very well after this rain. The top of the ground was wet. I dug down to get this.

Q. No matter about that. I am asking you why you could not have brought a



Specimen dry, instead of that.  
Could you not have done it?

A. No. I do not know  
where I could have got it.  
I do not know where I  
would go to get it. I knew  
the river was the nearest  
place to get this and I  
went there for it. There is  
such a deposit down in  
the south western portion  
of my place, but it was  
muddy and it was more  
convenient to walk across  
the sand and get it.

Q. Is that the same kind  
as this (showing witness the  
Hodgdon sample)?

A. That is very much the  
same as the sample marked  
Exhibit No. 3, only that  
has been cultivated and  
worked out; that is, what  
is mixed in with this.

Q. If this were dried would  
not it be very much the same?

A. This is not quite as  
light colored. It is a little



darker.

2. Suppose the water were dried out of that would it not be a little lighter?

A. It would be lighter than it is now but not quite as light as that.

2. It is very much this kind of material?

A. Very much. But there is a little more grit in this. There is very little of the pure white sediment that rests on our side. The current is strong there and we get a deposit that is more gritty.

2. You say the sediment you call slickens, settles in the low places as the water recedes?

A. Yes.

2. Does it not settle upon the level lands also as the water recedes?

A. I will answer the question by saying, that this sediment leaves the water when it does not run



When it is still; and in the low pools it is still water.

Q. Answer my question. When the water has overflowed the level bottom lands and when it finally recedes, does it not leave the deposit upon the level land as well as in the low places?

A. My observation has been that there is more deposit in the low places than there is on the level land. There may be some deposit on the level land but it is generally of a coarser nature more grit.

Q. Will it deposit more in the low places?

A. No, I do not say that.

Q. I understood you to say that?

A. It does of that material.

Q. So that in the course of years it would finally fill the low places, the sloughs and the little depressions.

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A. Oh I think there are sloughs over there which are filled up seven or eight feet with that material.

Q. Then you would say yes to my question?

A. Yes. It fills in those places.

Q. And that deposit is to be found more or less over all the land there is it not?

A. Not over all the land.

Q. Is it not to be found more or less over those lands?

A. There is land that is entirely covered with the sand, where there is no clay deposit. There are lands which are entirely covered with the clay deposit and no sand.

Q. Is not there some land there covered with what we call the clay deposit that afterward had sand deposited on it over the clay deposit?

A. Yes. Of this nature



(Showing). This is very much the same as that, only a little more grit to it.

2. Answer my question. I am speaking now of No. 5. Is not there some land where that substance has been extensively deposited in former years, say within ten years, where the later floods have brought some land over on that

a. I think there is

Recess until 2 o'clock  
P. M. —



In the Superior Court of the  
State of California in and for  
the County of Sacramento.

The People of the State of California	} Fourth Day Friday Nov. 18. 1881. Afternoon Session
vs The Gold Run Ditch and Mining Company	

Transcript of Testimony  
Volume 7.  
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Cone George 880 x 967 ReD. 1007 Re X 1012  
Crocker R.R. 1015 x 1019  
Smith Sydney 1028 x 1042

Wm J. Davis  
Official Reporter  
Sacramento.



Afternoon Session

Testimony  
of  
George Cone

Called for plaintiff sworn

Mr Hart. Q. Where do you reside?

Mr Cone? A. I reside on the north side of the American River in American Township about a mile and a half from the city close to the bank

Q. About a mile and a half from the City of Sacramento. A. Yes sir

Q. Close to the bank, did you say? A. I came there in August, 1852 and have been there ever since

Q. Have been there continually ever since?

A. Never have moved a peg or 100 yards

Q. What has been your occupation there?

A. I have been farming

Q. How much land



have you there?

A. I have seventy-two acres

Q. Have you been cultivating that land ever since you have been there?

A. I purchased the ground that I now own in 1855 in October

Q. October 1855?

A. Yes, sir

Q. What was the character of the American River when you settled there?

A. The American River in 1852 was a very clear nice stream with a gravel bed, a sandy bed, not fine sand, but I called it a gravel bed, similar to the Ohio River - small pebbles. It was very clear, very nice for deable at the time I came.

Q. How deep was it at your place in the Summer time?

A. At that time when I came here it was about 3 feet or 3½ feet when the



tide was up, and when the tide was down it was about  $2\frac{1}{2}$  feet or two feet, not over two feet and of an equal width almost all the way across. The river is 600 feet across there, where the old bridge was, right above the bridge is where the fruit was.

Q. What was the character of the banks of the river at your place? A. The banks at that time were high and abrupt.

Q. How high?

A. Say 16 or 18 feet.

Q. Above low water or above the banks?

A. Yes sir. Above low water, I mean - 20 perhaps.

Q. How much?

A. From 18 to 20 feet, some places higher and some places lower but not less than 16 or 18 feet anywhere, and they were generally abrupt banks



They had to be dug a great deal to get up and down with a team in crossing the ford there above the bridge.

2. What was the character of the country on either side of the river?

A. Well, on this side of the river it was mostly willows from about the distance where this levee now runs, clear to the river, and there was large trees along there, sycamores and some very large willows which grew in a body that is, what we call green willows. On the other side there was not much willows but a good many large trees or willows grew right on the banks of the river, and the banks of the sloughs. There was no cottonwoods in those days at all only once in awhile and



Q. On the other side was what kind of other trees did you say?

A. Most of the trees there was small willows and sycamore, and close along the banks, frequently on the sloughs too was large oaks, heavy oaks, a very great many of them.

Q. How was the country out back in altitude in height as compared with the banks of the river.

A. The country back a mile and a half or a mile and so forth had receded from the bank.

Q. That is, it became lower or higher?

A. Became lower, that is receded from the banks of the river. It went out to what we used to call the tule in them days, and there was grass land out there, very nice grass land that was cut. That was



always cut in fact from 1852 to 1862. It was always cut for grass for hay. I cut the grass for hay. I cut it four or five or six years

Q. Were there any settlements along the river near by you, persons who were settled upon or occupying this land?

A. Yes, sir. There were settlements all along the river, most of them <sup>owned</sup> small places commencing with the waters of the river. Shall I name them, some of them?

Q. No, you need not name them. About how large were the farms?

A. Well, Mr Barron's farm contained about a thousand acres. That was at the mouth of the river. The next one was one that was owned by Mr Bacon. W W Bacon. The next



one by a man of the name  
of Hudson, and the next  
one by a man of the name  
of Madder, and the next  
one by a man of the name  
of Bush, and I joined  
him and on the river in  
front of Bush - Bush  
didn't extend [to] the river -  
was a man by the name  
of Millgate

Q. Were there any farms  
above you? A Yes sir.

Q Along up the river?

A. The next place above  
me was a place that was  
called the Stoyt farm.  
Henry Stoyt. His father set  
thel it in 1850

Q. Well were there any  
farms above Stoyt's?

A. Yes, sir. The next  
place above the Stoyt's  
at that time was Mr.  
Larues

Q. Mr Larues?

A. Yes sir. That is on +  
the river, I mean



There was other places back  
 Oh, no, not the very next  
 place. The next place  
 I was at Norris' ferry  
 where there was a little  
 house, but not much ground  
 cultivated. The house as it  
 stood there was at  
 Norris' ferry and bridge  
 that was originally there.

In 1852 when I first came  
 there, there was a ferry.

Q. How far up the <sup>river</sup> ferry  
 was that ferry?

A. Well, the next place  
 above Mr Hoyts' was a place  
 where Mr Mauldin  
 and Mr Muldrew and  
 Mr Forsyth lived, one  
 after the other. I am not  
 certain which one lived  
 there first, but I think Mr.  
 Muldrew.

Q. That was above you on  
 the river? A. Yes, sir  
 on that side of the  
 river. On the north  
 side of the American



river

Q. How far up did you say that ferry was?

A. That ferry is about from the present bridge above my place.

Q. (int.) From the mouth of the river as it then existed?

A. Yes sir. I live three miles and that place is a mile and a half farther along from the mouth of the river.

Q. That is where the ferry was?

A. Yes, sir.

Mr. Catlin Q. That would be four miles and a half? A. Yes sir. I want to state this in reference to that distance I helped to measure the old river, and it is three miles and a quarter from my place by the old river.

Q. What was the nature



of the improvements on the farms along the river there on the north side, those that you have mentioned? I state it

generally as you can

A. Well, the buildings are all of the cheap character put up in an early day, most all before I came to California, before 1852

There was a house where I now live there called the Iowa House at that time right above where the present bridge is.

That is a part of my Rancho which I give you to understand

Q. Were houses the only improvements they had there? A. Oh, no, all that ground all the whole way except very little, clear to Larue's was all in cultivation, and in very good shape producing extraordinary good crops.



it was extraordinary good land  
land

Q. What kind of crops  
did they cultivate this  
land with?

A. Almost everything. I  
could hardly name any  
thing except there was no  
hops at that time but there  
was corn potatoes and  
vegetables. A large portion  
of this <sup>city</sup> ~~crops~~ was supplied  
with vegetables from that  
side of the river

Q. Were there any orchards  
there?

A. And there was any  
amount of orchards. That  
is not in 1852, no sir  
but afterwards

Q. How long afterwards  
when they commenced  
planting orchards there?

A. Well, I think some was  
planted in 1856, but a  
very large number was  
planted in 1857-1858-'59  
and 1860. Mr. Bannon



planted a large orchard in 1860. Mr Bannon planted a good large one in 1859 and 1860. Mr Millgate planted the same year, 185, mostly and I planted in 1858 1859 and 1860, myself

Q. How far up the river did this settlement extend of lands occupied by small farmers such as you have mentioned?

A. Well, there was then a great many people in 1852, a great many people lived on the Norris' grant by what is termed squatter rights and is extended the whole length of that ground?

A. I don't say positively. I did in 1852, but in 1853 I was all through there and I know that there was houses and farms and Col. Washington lived 7 miles above there

Q. How far up did the



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 Morris' grant extend?

A. The Morris' grant extends about ten miles from the bridge, that is three miles across the river

Q. How far up that river do you go before you strike the foot hills?

A. In going up the river?

Q. Yes sir

A. Oh, you have to go clear to Folsom if you follow the river up

Q. How far is that?

A. On this side of the river to get to Mississippi bar is sixteen miles to go straight

Q. In the last six miles of the country there settled or was it?

A. Not much, no sir, There is some settlements in the bottom. White & Hollister had a very large orchard in what is called the bottom up there in the San Juan grant



Q. How far up is that?

A. That is a mile and a half above the Norris grant, that would be 11 miles and a half above the bridge.

Q. Since that time has that country been settled generally?

A. It is not. It has wasted away.

Q. I mean up to 1860 say.

A. Oh, yes, it continued settlements up there until about 1860.

Q. What was the character of the land on the other side if you know?

A. This side.

Q. Yes sir.

A. Well the land on this side then was not so much bottom land. I was not familiar with the land above - well I have been over oftentimes to Pattersons Station where that is and above there. I was not familiar or at all. I have been there several times, but don't pre



tend to know

Q. Are there any considerable number of people occupying the land between Sacramento City and Folsom on this side of the river

A. Oh, yes sir. The whole ground was occupied. All the ground along the Coloma road and on the Jackson road

Q. With large or small farms? A. Small farms generally. Yes sir

Q. Do you know anything about the nature of the cultivation?

A. Well, most of those —

Q. {Int'y} On the south side? A. Well most of those farms in and about Brighton were cultivated at that time to wheat and small grain not in 1852, but 1856 and 1857 and 1858 along there. There was very little cultivation only vegetables in 1852



Q. No orchards?

A. Yes sir, some orchards there. Smith's orchard was on the other side about Leslie's Bridge

Mr Cattin. That is right up here near 31<sup>st</sup> street?

A. That is what he asked me, from the city up. It is above the city.

Mr Hart Q. These farms as I understand you to describe them are on either side of the stream next to the stream

A. Yes on both sides of the American River was occupied. It was all claimed without ownership, the grant being the owner originally virtually

Q. Were the banks of the stream on the south side lower or higher than the land some distance back?

A. On the south side?

Q. Yes, sir

A. I think not. No sir

Q. You didn't think they were higher or lower



A. I don't think they were lower they did not recede as it did on the north side.

Q. Now you say that this stream was a clear stream at this time? About how clear? Can you describe to the Court about how clear the water was?

A. Well, I have been on all the western rivers near I don't know that ever I saw a clearer stream than that except one river.

Q. Do you know how deep the stream was near Sacramento City near its mouth.

A. Well it is pretty deep at the mouth of the river and at the bridge where the bridge was. The same year I came to California I crossed the plains and I went down there and went <sup>in swimming and I went</sup> out on the pier of the bridge and ~~down~~ <sup>dove</sup> off of it very often and I done that for five



or six years most every summer

Q. Do you know whether or not the tide ebbed or flowed in it? A. Yes, sir, it did

Q. How far up the stream?

A. Well, I could not tell how far up the stream. I don't think I ever noticed that but I will tell a little incident that occurred there.

We used to ford the stream with a wagon and in the getting over in the morning we would have no trouble. It would not go over the ash-tree. Coming back in the afternoon it would run in the bed of the stream.

Q. Where was that?

A. At the bridge

Q. How far up the stream?

A. Three miles, from the mouth three and a half

Mr. Cottin That is by the old river? You always mention by the old river That distance is now by the old river



Mr. Hart I am speaking of the stream as it was in 1850

A - Yes sir I am trying to give him 1832. That stream was very clear, very nice, and the water at one time in 1834

that was, we had very low water in December, as late as the last of November and perhaps December. I went down and pulled a man out and the water was in the wagon

bed perhaps that much five or six inches.

2 - How much did the tide raise the stream there?

A I bet him the whiskey I made this statement: I bet him the whiskey it raised twenty inches and he bet me and we stuck a stake in the next day and I had to pay it. It was eighteen

2 - Eighteen inches

A - Eighteen inches: I lost the whiskey

2 - You lost the bet, did you?



A- Yes sir I did

Q How much did you bet on?

A- I bet on twenty inches.  
I had before noticed that fact  
before when I was in swim-  
ming. I am very fond of going  
into the water

Q- What you call the sandy  
bed of the river, what was  
that substance that you  
called sand?

A- It is little pebbles the  
size of peas.

Q- The size of what?

A- The size of peas and  
smaller. We termed it in the  
Ohio river, "Grand beds," that  
is what we termed it there.

Q- Is it anything like the  
contained in this bottle marked  
Number 4?

A- No sir not a particle  
like that because that when  
it is wet-

Q {Intg} As distinguished from  
that was it a sand or a  
pebble bed? A- Pebbles. In  
traveling over that with a



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large beam you did not sink  
and if you traveled over that  
{ specimen number four } in  
water it will sink, it will  
sink anything, it will sink  
down.

2 - How far back from the  
river in 1852 and thereafter  
until 1860 were these lands  
cultivated and occupied by  
small farms?

A - Why right two miles and  
two miles and a half from the  
American river they were  
cultivated clear to Nicholas  
twenty four miles.

2 - How far south - do you  
know? A - On this side?

2 - Yes sir

A - Clear to the city of  
Sacramento when the levee  
was there was a little levee  
on Vine street when I came  
to the country, about two feet  
or two feet and a half high,  
perhaps some depression was  
a little higher running from about  
Twentieth street clear down



around Sixth-street.

2- Has there ever been any change made in this river since that time, in the bed of the river?

A- Change in the bed?

2- Yes of the American river

A- Yes as it has filled up

2- When did it first commence filling up according to your recollection?

A- Well it filled up some in 1837 and '38 and '39 but it all cleaned out in 1837

Q- It all what?

A- It all cleaned out in '39

Q- What did it fill up with?

A- Filled up with sand so you could not ford it then

Q- Could not ford it?

A- No you could not ford it because you would wade in the sand

Q- How deep did it fill up in 1849?

A- It was not filled up much, perhaps a foot or fifteen



nicker, something of that kind  
 Q- When did it clean out afterwards?

A- It cleaned out in 1859 in November, but then the agent of the bridge Company and I had occasion to examine that very closely. I was surprised and the water was an extraordinary flood, an extravagant one that took away the bridge at the mouth of the river.

Q- Where did that bridge go to?

A- I was the agent of the other Company, I didn't follow that bridge, I couldn't tell you.

Q- Do you know of any considerable distance to which it went? Where generally did it go to? Where?  
 A- It went down the Sacramento river.

Q- Went down the Sacramento river?

A- Yes Sir

Q- Where did the sand go to that was washed out?

A- I suppose it followed the bridge or the bridge followed



the sand I don't know - which

Mr. Catlin - Q - What time did you say the bridge went away? A - That was in 1859.

Q - That is when it cleared out what it filled in, in 1857 and '58? A - Yes

2 - What was the occasion of this cleaning out what cleared out the river?

Mr. Catlin - An extravagant flood he said?

A - Well, every year - there is only two or three exceptions since I have been in California which is twenty nine years last August, there is only two or three exceptions that the American river has not risen first. Being short it rises first and beats the Sacramento, and it rises and runs clear out sometimes before the Sacramento rises at all. That was the case in 1859. The consequence was there was nothing down in the Sacramento to stop the flow of the American



and it cleaned the American  
clean out

Q- What was the nature of  
the bed of the river after this  
cleaning out?

A- It was as hard as it  
was originally. I sounded that  
on purpose to ascertain what  
it had done.

Q- What was the nature of  
the bed of the river? what  
was it? A- It was  
gravel. Q- The sand had  
been cleaned out.

A- Coarse sand, coarse gravel -  
not coarse gravel but some  
times gravel as large as a  
partridge egg or something of  
that kind.

Q- But the sand bar had  
gone away? A- The fine  
sand all disappeared, yes sir.

Q- When did you notice  
any change in the river?

A- In 1862 - 1861 and '2  
The river rose very extraordinarily  
the 9<sup>th</sup> of December 1862 or  
10<sup>th</sup> of December 1861 or the



9<sup>th</sup> of January. There was two floods. One was the 9<sup>th</sup> of December or the 10<sup>th</sup> of January or the 10<sup>th</sup> of December or the 9<sup>th</sup> of January. That I am certain of. I can't fix it which is which.

2 It is not necessary to be exact as to a date

A- The two floods that flooded Sacramento at those seasons. Then it made a great deposit in the American River

2- How much of a deposit?

A- Well perhaps four or five feet - three or four feet. Somewhere in the neighborhood

2- In the beds of the river?

A- Yes Sir, in the bed of the river and all along the banks.

2- What was the nature of the deposit made that year?

A- That was said, more of a slickens character than it is now

2- More of a slickens character? A- Yes. Than what comes now



Q - Well what was the character?

A - Well from sand you know. It was not good soil. It injured all the land more or less that year.

Q - It filled it up how much? A - Three or four feet in some places, perhaps in depressions and cavities in the river it filled it up six feet; in some places perhaps, where the river ran speedily it did not fill it up two.

2 - Did that even wash out or did it always remain there afterwards? A - Yes sir in 1868 we had another flood similar to that one in 1869.

2 - What did it do?

A - It washed it out.

2 - Where did it wash it to?

A - That I can't tell, it went on.

2 - Which way did the water run?

A - The water ran down the river.



Q - Down the Sacramento

A - Yes sir and very lively too

Q - How much did it wash it out?

A - It washed it clear to <sup>the bottom</sup>

Q - It did? A - That I know positively. I don't guess at that because I took a pole and sounded it to know it

Q - How far down the river ~~did~~ <sup>do</sup> you know that it washed this sand out in 1867 and '68?

A - I know it washed it out clear out to the mouth of the American.

Q - Did you see any evidence of it in the Sacramento river <sup>at that time?</sup>

A - No, I don't think I went down the Sacramento river in 1868, only to go with a boat while the water was high so that I saw anything of that kind but when the water receded in 1868 there was sand-bars in the Sacramento that I never saw before.

2



2- Thereafter this river had been washed out you found said bars that you never had seen before.

Mr. Cattin. That is a little leading isn't it?

Mr. Hart- Well that is what I undertook him to say. 2- Where did you find any said bars?

A- They were down in the Sacramento, There was bars there after the water receded. There were some right at the mouth right below the mouth of the American

2- How far below the mouth of the American?

A- Right at the American river and in the Sacramento

2- Had you ever seen those said bars before?

A- No Sir they were not there

2- They were not there?

A- No Sir, I have seen large vessels at the same place where the sand bar now is and was there



2- How long did the sand bar remain in the Sacramento river, if you know that was formed that year from the washing out of the American?

A- Well sir, it has never been free yet that I have seen, if ~~I~~ has I never known it.

2- Where is that sand bar with reference to the City of Sacramento?

A- Right at the mouth of the American river

2- Where is the mouth of the American river?

A- The American river now is about half a mile above where it was originally in 1852; It was dry there in 1863. The channel was cut. My memory may be a little treacherous in reference to that year, but I think not.

2- Did you ever notice any change in the bed of the river after that?

A- No Sir. That is any change



only more constantly filling up ever since

2 - Well that is what I want.

A - Yes

2 - When did it again commence filling up?

A - 1875 - it filled up considerably, perhaps a foot or more. Then in 1878 it filled up extravagantly.

Q - How much? A - Well, six or seven feet - no, four or five feet.

Q - How much has it filled up in all? A - Well, I should think from twelve to fourteen feet.

Q - At your place? A - Yes sir, anywhere within a mile or a mile and a half each way.

2 - At your place?

A - Yes sir

2 - How wide was this filling up? A - Well there is bare alluvate on each side of the river, dry bars now where formerly there was no bars at all and the bars are



almost as high as to the bank of the river. In some places they are higher than the bank of the river originally <sup>was</sup>.

Q - How much higher are the natural banks now as they were in 1852 than the bed of the river -

A (Intg) Very little - the natural banks now?

Q - No. How much higher are the natural banks as they were in 1852, than the bed of the river as it is now? A - I don't get the question

(Question read)

Q - Don't you understand that. How you know how high the banks of the river were in 1852? A - Yes Sir I think they were from sixteen to eighteen feet.

Q - How much higher were those banks as they were then than the bed of the river is now?

A - Why, the banks now aint <sup>more</sup>



than eight or nine feet above the water.

Q - The banks as they are now are not more than eight or nine feet, above what?

A - Not more than eight or nine feet above low water.

Q - Above low water?

A - Above low water now.

Q - How do the banks at this time compare with the banks of 1852?

A - Will no comparison



Q Well, what is the difference?

A. 12 to 14 feet difference

Q. I mean. how much lower or higher are the banks in altitude now than they were in 1852? Have they been changed?

A. They have been added to; the banks. The flood has added to the banks all along here.

Q The banks have grown higher too? A. Yes sir the banks have grown higher too I have got now the gist of the question.

Q. What is the difference between the Capacity of the river for carrying ~~the~~ water now and its Capacity in 1852?

A. Well from my own judgement of the river I should say it was reduced at least one third.

Q it was reduced one third?

A. Is now reduced one third to what it was then.

Q. To one third. or one third?

A. No. reduced one third



at least & perhaps more, one half.

Q. What has been the effect of this filling up of the river upon those farms that you have described, on each side?

A. Well, the effect has been to nearly destroy them, virtually to destroy them.

Q. Are those farms over there occupied now?

A. Yes sir, they are

Q. All of them?

A. A great many of them. Well I don't think there is a house in six miles on this side of the river occupied now - six miles up and down the river occupied now. three miles one way and three miles the other that was occupied in 1853 or 54 or 57.

Q. How is it? are the lands cultivated, or have they been abandoned? A. No They have not been abandoned They tried to make a living on



them - I want to finish the occupation of the houses except they have been raised from three to ten feet, there is not a house in my recollection? Mr Rooneys house has been raised, my own is raised? Mr Babcocks. Mr Wingates! Bannan has gone away and Mr Bacon has gone away and so on. all these houses are some of them virtually gone and other houses are gone that I cannot recollect now.

Q Are those lands over there cultivated annually now?

A. Well they try to cultivate them, some of them. there is a great portion of them that is not.

Q, you say you try to cultivate them, do you succeed in cultivating them?

A. I can always cultivate them. but the result is a poor prospect. you know

Q. do you <sup>get</sup> any crops?

9.14



A. No sir. we do not. we used to get big ones. large ones.

Q. How much of a levee was required in order to enable the American river to carry its water in 1852 and from that time on until 1860 on your side?

A. on our side there was no levee built there until 1864 on the north side.

Q. Did you have any floods there? A. Yes sir every year nearly.

Q. How nearly every year?

A. Some years. exceptions.

Q. What were the nature of those floods? A. They would run over the ground and then run right away and would not injure the land.

That is up to 1862. in 1862 there was a large deposit made all around everywhere. both sides of the river and the character of that deposit was not so bad



The next year I cultivated all of my ground that I had cleared and I got a very fair crop. but this first year. the flood of 1862 the year of 1862. Mr Wingate who joined me. he would not cultivate at all. I cultivated mine, part of it. and obtained only a few potatoes.

Q. That was in 1862?

A. That was in 1862.

Q. That was the great flood?

A. Yes Sir.

Q. But during ordinary seasons of high water. water ran over the banks there in the American river from 1852 up?

A. Well there was a great many years it did not. No Sir. a good many years it didn't run over so as to do any damage at all.

Q. About what proportion of the number of years? what proportion of the whole number?



A. Well until —

Q. [Intg] I am speaking now of the years between 1852 and 1862. Say — A. Well I don't think we were damaged at all only perhaps delayed in our crops any year in that time, my recollection is

Q. you say that you commenced building levees in 1862? A. Yes Sir, that was by authority of the Swamp Land Commission

Q. Have you been building any other levees? been increasing or lowering them since that time? A. The thing went off the next year and we abandoned it.

Q. Have any levees been built there since? A. No Sir —

Q. How high does the water run there in the winter time during ordinary seasons?

A. Over the same ground?

Q. Yes Sir. A. Oh ~~no~~ from three to five feet

Q. From three to five feet?



A. yes Sir.

Q. During ordinary seasons {

A. yes Sir. I want to state that in 1871 we was not hurt at all there, in 1877-8 there was no water there but since 1878 we have been flooded over from three to five feet every year. but last year a good deal more than five.

Q. Does it grow higher or lower? does the amount of overflow grow larger or smaller? A. Oh it has been growing constantly larger -

Q. Do you know of any reason for that?

A. why. the river has filled up all the cavities There is no place for it to run -

Q. What, if anything has been left upon your land over there as the result of these overflows?

A. Why that white stuff



there. that white sand. or white material, I dont know which you call it. It is called all the names I believe? Sediment and Slickens and debris and everything of the kind. I call it white sand. I was damaged this year a thousand dollars by that sand.

Q. which is it that you call Slickens. and Sediment and white sand?

A. That is the sand you know. That is the stuff that I have got (Referring to specimens marked "No 4. A. & G")

Q. How deep is it on your land? A. If that is not the white sand I want to take it back.

Q. That is the sand?

Mr Catlin. Well. let the witness say whether or not that is the stuff he refers to

Mr Hart Well. he has not good eyes, Mr Catlin  
A. Dont this the same?

Q. Well. look at it and see.



A. Yes sir. That is the fellow I have got that on my ranch on a piece of ground <sup>that I</sup> have taken from 500 to \$800 off of for seven years or eight years since 1870. I have taken off of one field of 15 acres that faces the American river on the north side from 500 to \$800, except last year. last year, it is covered with this now, it is covered with this from 18 inches to three feet.

Q. How many acres of that land? A 15 acres of my land is covered with that. The other land is not so badly poisoned. I call that poison.

Q. Why do you call it poison? A Because there won't anything grow, only burrs.

Q. Only burrs? A. That is all

Q. When did this sand from 18 inches to 3 feet deep come



upon this land that you mention?

A. Last February.

Q. Did all of that deposit come that year? A. all that sand; yes sir. The other deposit you know had come there before. in 1862 and other years. as I stated.

Q what is the nature of the other deposits?

A. Oh. that I could grow a crop on the second year first rate.

Q. what was the nature of it? A. Well. it was finer material.

Q. Called sediment?

A. yes sir Called sediment. as soon as ever you could plow and reach the old soil you raised a good crop. and if you could not reach the old soil the crop was poor. But as soon as ever you cultivated it the second year. without being poisoned the third year or second year you raised a good crop.



Q. about how much land on the other side of the river on the north side, where you reside. is covered with this sand that you speak of now in your neighborhood there running three miles up and down the river? A well there is a thousand acres -

Q. within that three miles do you know about the average depth that that land is covered with this stuff with this sand?

A. Well no. not positively only so far as my own is concerned I have dug for that. and the reports of my neighbors. I have visited them. I have visited my neighbors to see how badly they were injured. for instance. Major Holland and Mr Greenlaw on this side. Mr Flint. who owns a place above me. Mr Babcock who owns a place below me. I have been on



all of them and Examined them  
all but my Experience is all  
I can judge from.

Q well about what depth  
do you find? A Well. I  
think it is Mr Flint. he is  
Worse than I am.

Q about how deep is it.  
on his land? A Well he  
has got plenty of places  
where it is five feet deep  
of that same stuff.

Q. of that sand.

A. Yes Sir. That sand

Q. Can you walk through?

A. Well, it is laborious

Q. Can you haul a wagon  
through it? A. Well they went  
and hauled straw and stuff on the road  
to get along with an empty  
team.

Q. you have to put straw on  
there in order to get along with  
an empty team?

A. They did this last spring  
and summer.

Q. you say that covers about  
a thousand acres then over there?



A. I don't state to be positive with reference to that but I think it would not fall much short of that.

Q What effect does it have upon the value of land for the purposes of Cultivation and grain and vegetable raising?

A. Why, it destroys it for the time being

Q. Can you raise anything in that sand when it comes to be three feet deep?

A. I think not. I know you cannot. I don't think about it because I am quite a hand to experiment myself. I want to plow two acres and a half of that ground and a portion of it was better than that and a portion just like it. and where the portion that was just like that, the corn was about that high (The length of the hand)

Q When did you first discover any of that kind of sand in that community or



that Country there? A. on the banks. I never seen any until this last year so bad as that. There never has been known so bad as that on my side of the river.

Q. Do you know where it came from? A. It came down the river.

Q. Do you know a place called Larues place up there?

A. Very well.

Q. What was that?

A. Larue bought his place about 1863. before he bought it he set it out with 6000 peach trees and some apple trees. I dont think a great many apple trees, perhaps 300. It was a very nice piece of land laying adjacent to the American river, and defended on the American river side - 240 acres and this extended the length of it and he had 6000 trees - at least I take that statement for myself. I have been in



the orchard several times —  
 peach trees that he made a  
 great deal of money out of  
 in 1862 and 63 and 64. I  
 believe he left there at  
 that time. That land I  
 considered the best land that  
 there was. I didn't think  
 there was any better out  
 doors than Larues bottom land.  
 I always thought so, in the  
 first instance. tried to get it  
 tried to buy it but now I  
 would not give \$25. for  
 the whole Concern—

Q What has become of the  
 orchard? A. Well a part  
 of it, it has washed the  
 sand on and a part of it  
 it has washed the soil off  
 off and left the alkali  
 and it wont produce no-  
 thing to amount to anything

Q. Where is the orchard?  
 Is it there? are the trees  
 there? A. I dont' think  
 there is more than 2 or 6  
 trees. Somewhere along there,



There may be some stuck along in the willows that I have not seen.

Q. what is there there ?  
Does it look like an  
orchard ? A. oh there  
aint no orchard there.

Q. what is it ? A. well  
the Chinamen has been trying  
to cultivate some of it and  
some of it they have left.  
They did raise in some  
places a small crop.

Q. Can Chinamen cultivate  
this sand ? A. well they tried  
it. I guess they come out  
behind, so they said anyhow

Mr Catlin Well you need  
not tell what they said  
Mr Cohn. you are a Justice  
of the peace up there in your  
section of the Country ?

A. yes sir. I am

Q. Do you receive that kind  
of evidence in your court ?

A. No sir

Q. Well then dont give it  
here.



Mr Hart. Well I will ask you about it. you say there was a sand bar formed in the Sacramento river in 1868 at the time of the washing out of the sand there?

A. yes Sir.

Q. Prior to that time what was the Character of the Sacramento river if you know?

A. I went up and down the Sacramento river a good many times, I think the first time was in 1853 or 54.

Q. where did you go from.

A. From Sacramento

Q. From Sacramento where to?

A. San Francisco

Q. Did you go up and down more than once?

A. Oh. I was up and <sup>down</sup> that year and the next year perhaps a dozen times and perhaps more.

Q. What Kind of boats did you ride in?

A. I think I went down the first time I went. on



the Wilson. G. Hunt if I recollect right.

Q. What kind of a boat was that - large or small?

A. Yes a pretty large boat.

Q. Do you know whether large boats did navigate this stream up to 1868 or near that?

A. Oh. yes! very large - the Senator was here and the Wilson G Hunt and New World and a new boat called the - a great big side wheel boat - the "Bragden". I think was the name of it. a large boat I was a personal and particular friend of George Barclay that used to command the Queen City.

Q. When did that run?

A. I was just trying to think and he invited me to ride when I was a mind and I did so.

Q. Now. in running up and down this stream with those boats that you speak of.



Was there any difficulty experienced by the boats?

A no sir.

Q where did they run?  
Through what is called the old Sacramento below here or Steamboat Slough, where Steamboat slough cuts through?

A. Steamboat Slough all the time.

Q So you know where the Hogs Back is? A yes sir. I do very well.

Q Is it in Sacramento river or in the slough?

A. It is in the Sacramento

Q Steamboat Slough is a part of the river, the river divides? A. One is what is called old river and the other is Steamboat Slough I have been through them both, I never was down the old river, I believe, but once.

Mr Catlin Q Dont the hogs back just below the end of Steamboat Slough?



A. Oh. yes it is in Steamboat Slough. it is in the Slough at the lower end.

Mr Catlin it is right close to the terminus. I suppose

Mr Hart Q. After 1868 did you notice any changes and up to that time did you notice any changes in the character and depth of the Sacramento river?

Mr Catlin up to what time Mr Hart.?

Mr Hart up to 1868. I will change the question so as to make it that way; up to 1868?

A. Wait a moment you are getting it up to 1868. In 1867 in the summer and fall - I went down the river four or five times and I don't think I ever went down the river since that <sup>time</sup> only in high water. I could not name anything about it - I went down in very low water in 1867.



I sold hay there and had it towed down and ~~had it~~ went down on the vessel that carried it.

Q In 1852 when you came here what was the character of the river along near the City of Sacramento?

A. Well it was deep all along the banks of the Sacramento large vessels lay along there by the gas works down there.

Q about How many large vessels.

A. I don't know as I ever saw more than one or two there. There was some good sized ships there. There was no bridge or anything of that kind to interfere and the water looked to me deep.

Q. what was the character of the water?

A - Oh it was clear.

Q To the banks?

A. yes Sir. Clear like it is away up at the head.



Q What was the Character of the Banks? A. The banks was abrupt.

Q How high? A. Well 18 or 20 feet.

Q. When did you say you first noticed this sand bar?

A. I don't think I noticed that bar until in 1862.

Q. Well I mean the one that you spoke of that came out there at the time of the clearing out of the river? A. That bar was at the mouth of the American river. There was a little bar formed there at the old mouth - and then by authority of Judge Swift you know. That cut was made down there? That was done in 1863. The other cut above was made in the same year or commenced the same year - and continued on. and that cut you know continued on carried the water at the cut



and formed a bar immediately below the cut

Q- When did you first notice that bar? A- In 1868

Q- In 1868? A- Yes, to amount to anything

Q- Do you know how deep the river down where that bar was formed, prior to that time

A- Well I have been there a great many times. I think it must have been from 16 to 20 feet deep.

Q- The river must have been 16 or 20 feet deep at the place where the bar was formed?

A- Where the bar is now, and where it formed. It is now there

Q- It has been there ever since, has it? A- Yes Sir as far as I know

Q- How deep is that bar according to your measurements

A- I should think 16 feet or 18. It is as high as the bank above



Mr. Leath. He didn't say he had measured it. You said according to his measurements I haven't heard him say anything about his having made any.

Q - What was the color of the water that you saw coming from the Nuba river in 1852?

A - This American?

Q - Not the Nuba but the American river

A - In the winter time the water would be muddy or of a reddish cast like it is in the Missouri river, or Arkansas?

Q - You saw that in 1852?

A - In the winter of 1852 and '3 we had extravagant floods. There had been a great deal of surface mining done and it brought down sand colored the river with a reddish cast.

Q - That was in 1852 in the winter?

A - 1852. Q - But I mean in the summer



of 1852 when you first noticed it? A- Oh, it was as

clear as crystal you could see the bottom ten feet I think

Q- After the winter of 1852 did the water again become clear? A- Yes Sir

Q- How long did it remain clear A- Why it ~~was~~

just as clear in 1854 as it was in 1852 and it was as clear in 1857 as it was in 1852 in the summer time

A- In the summer time I mean at low water. I do not mean at high water at any time.

Q- How long did it remain clear that way? A- Well it was quite clear in 1859.

Q- 1859? A- Yes Sir

Q- When did it commence getting muddy? A- It got muddy as soon as the river would raise in the fall and then after 1861 it never got clear really. It was clearer this year than it has been



in twelve years.

Q - How long has it been clear this year?

A - Well it was clear say between two and three months.

Q - Do you remember or know about when this suit was commenced?

A - I recollect of seeing the notice in the paper of the commencement of the water.

Q - Well did the water commence getting clear before or after you saw that notice in the paper?

Mr. Leattie - I object to that question. You know when the suit was commenced, the records here will show.

Mr. Hart - I am not asking when the suit was commenced. I am asking when the water commenced getting clear before or after he saw the notice in the paper about the suit being commenced.

Mr. Leattie - That I object to as being improper. The record



will show the commencement of the soil and you know what it is and I have no objection to your stating it.

Mr. Hart - No, I asked him if it commenced growing clear before or after he saw the notice in the paper?

Mr. Cathie, I withdraw the objection for the sake of brevity.  
Isop ahead

A - Without any knowledge of the commencement of the action, or thinking anything about the action the present bridge tender and me several times during the last summer

Mr. Cathie (Int'ly) Tell what you did yourself, not what your associate bridge tender did.

A - I say the present bridge tender and myself several times I went into the bridge and had a conversation with reference to the water being clearer. It had no reference to the commencement of this action



Mr. Hart. 2- I asked you whether or not you noticed its being clear before or after you heard of the commencement of this action?

A- Well it was after the commencement of this action undoubtedly

2- After you heard of it?

A- I think so, I would not be positive because I have no recollection of placing the two together, and I think Mr. Greenlaw and myself -

Q- (Intg) About how long ago was it that you noticed that it commenced getting clear?

A- It was clear just before the first rain we had this year in October.

2- In October?

A- Yes sir, very clear too, more so than it has been for ten years.

2- Was it as clear or clearer in the summer time than in the fall of this



year?

A- It was clearer in the summer time prior to the rain, prior to any rain this fall when the rain came it muddied the water.

2- You are speaking of this one now?

A- Yes sir.

Q- It is winter now, I guess which is it, fall or winter?

This is fall; How long ago approximately, did you first notice that it commenced getting clear this year?

A- Well I think some time in September.

Q- Sometime in September you think?

A- Yes sir, there was very little water running in this year.

2- After the river commenced getting muddy in 1861 you say

A- Yes, 1861 and '2

Q- Did it afterwards become clearer or did it constantly increase in the amount of



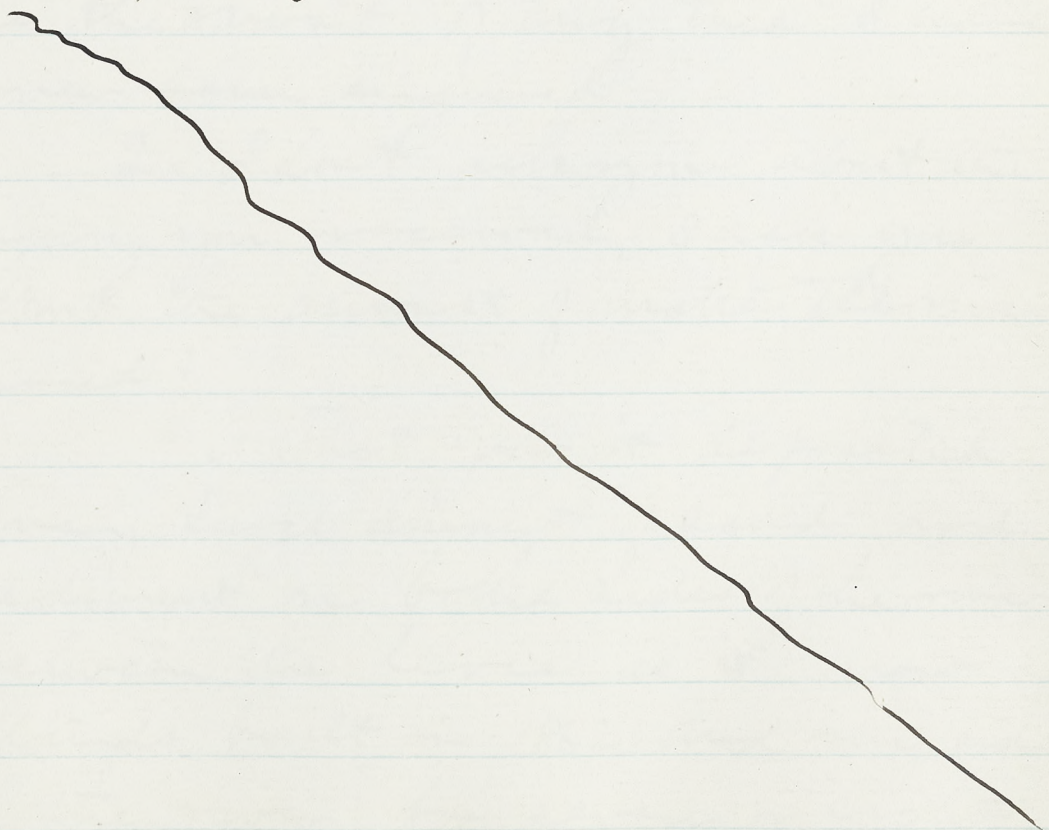
mud that it carried?

A- Not from 1862 up to 1868, it didn't increase in being muddy. It was as muddy in 1862 as it was perhaps in any other one of those years 1863 '4 '5 and '6.

Q- It carried about an equal amount of mud all that time?

A- Yes ~~of~~ sir.

Mr. Catlin - I object to that question. That is suggestive and leading and your first question was objectionable because it was leading. Let him describe the process.





2. Now then since 1867-8 including those years what has been the character of the water, and simply for fear that I might suggest something to you which might induce you to follow my advice in the matter, just follow it right along and give us the different stages as nearly as you can from that time on?

A - Well the most extravagant flood we ever had in California, that is, on my side of the river of ~~course~~ <sup>course</sup>, it didn't hurt Sacramento but on that side of the river was in 1868 and it occurred Christmas night 1867. It injured me the most of any time I have ever been injured.

2. I don't ask you about the injury you received; I ask you about the amount of matter the river carried?

A. That year it deposited a very large amount of sand and sediment on both sides of the river between the levee as it now stands built in 1862 and my side of the river for seven or eight



miles above where Cox and Clark  
runs it and covered their ground  
over, the sediment and slickens  
or whatever you choose to call it

2. How long did it continue  
to carry this great amount of mud?

A. I was going to call it to  
memory as well as I ~~could~~ can.

2. Well go right along and  
follow your own memory?

A. The river remained very  
high for a long time and I recollect  
this part distinctly that the first  
time that I could follow ~~it~~ was  
May 3<sup>rd</sup> 1868 and it remained high,  
the Sacramento and the American  
at my place, the Sacramento  
backing the American up, kept  
the water so high that I had to -  
part of the bridge went away in 1868.  
The present bridge went away in 1868  
and I had to come to town  
afoot because I could not get  
here any other way. I had to get  
a team from Major Holland when  
I got on this side and it remained  
high and kept muddy all the  
time that time, very muddy, and



deposited a great deal of sand upon the bank and rendered the ground unfit for use that year, almost all the ground over there in 1868.

2- Has it been carrying mud ever since?

A- It has been carrying mud ever since.

2- State whether or not during the summers intervening between these times of high water since 1862 the water has remained muddy or become clear?

A- It never got anything like clear.

2- It never has?

A- No sir

2- That is since 1862?

A- Yes sir

2- I speak of all times of course up to the present time, when you say it got comparatively clear this year, this fall?

A- Sometimes it would be far better than others. That is all I can say. It is all the time dirty. It is not like the Sacramento is above Ayuba and such places



as that

Q. Did you ever notice the water of the American during times of high floods running into the Sacramento?

A. Oh, yes, yes sir. I have been down it a good many times

Q. Which was muddier, the water of the Sacramento or of the American?

A. Oh, the American beats them all.

Q. Beats them all? A. Yes, sir

Q. How much does it beat the Sacramento, do you suppose?

A. You could almost stir it with a stick when it first rises.

Q. Almost stir it with a stick?

A. Yes sir, it just rolls. I have seen waves at the bridge there six or seven feet high

Q. You have seen it carrying this muddy water and stuff into the Sacramento?

A. Yes, sir



Q. Did you ever see any sand in the river, and if so state what you have seen it do? A. Why, I have watched the river and seen the sand go along just as the water flowed, particles of sand going with the water (illustrating)

Q. How did it go? You made your hand go around this way (whirling motion)

A. Then this way (whirling motion) Go down the river.

Q. You have seen it going down the river? Yes sir it is very easy to be seen at any time when the water is running

Q. In any considerable quantities or only in small quantities

A. From what it leaves I imagine it to be very large quantities

Q. You need not state what you imagine. State what you saw

A. Well, I saw it, and



it goes in large quantities  
I state that.

Q. How is that?

A. I say I saw it go  
in large quantities.

Q. Where from? A. Well, it  
went down The American

Q. Did you ever see it  
go from The American?

A. No I have seen it  
down at the mouth of the  
Sacramento go on in the  
Sacramento. I have been  
at the mouth of the  
American a great many times

Q. You have seen it go  
on in the Sacramento?

A. Oh yes, I have been  
there a great many times  
and seen it pass on

Q. How many years do  
you remember having seen it  
do that?

A. Well, I  
<sup>don't know the first</sup> I  
recollect about that, I was  
a member of the Court of  
Sessions in 1862 and '3 and  
in 1862. I had to come to



The Court All the time with a little boat.

Q. Now you say you have seen it?

Mr. Cattin. Let him answer that fully.

Mr. Hart. Well he said he had to come over in a little boat.

A. And I used to watch it very closely and saw the sand go down as I went backwards and forwards.

Q. You say you have seen it go in large quantities?

A. Well, when the river was 10 or 15 feet deep in running water, and the American higher than the Sacramento, you could see it go in what I would call large quantities. I don't know how else to express myself.

Q. What was the comparative velocity of the water in the Sacramento and the American?

A. Well, the Sacramento.



when it is low - I think it  
 a very dull stream, perhaps  
 3 or 4 miles an hour, The  
 American is 6 to 10 up  
 there

2 - Up there where you  
 are? A - Yes Sir

2 - How does it run?  
 With a rugged or very smooth  
 surface? A - No Sir  
 very rough

2 - Very <sup>rough</sup> ~~much~~ surface?

A - Very rough

2 - Describe it as nearly  
 as you can? A - Well

there ~~is~~ waves there I have  
 seen waves in 1868 that  
 was from five to seven  
 feet high. I know about  
 waves because I have been  
 on the Mississippi and  
 Ohio and all those streams

2 - During the time of  
 extreme freshets could you  
 pull a boat right straight  
 across the stream?

A - No Sir, nobody  
 can do that



Q - Can they pull it up the stream? A - No Sir they can not.

Q - Do you think a steam boat can run up the stream against the current direct

A - No If it stayed it could not. They would have to hug the shores if they did.

Q - The centre of the river I speak of, where the current is?

A - No Sir, no boat unless made on purpose for that

Q - Could it run up that current? A - No Sir in the middle of the river

Q - When you saw this sand going down this stream what part of the water could you see it in?

A - You could see it all the way on the surface of the water and along the edge of the bank, you know how it would go along the



edge of the bank. You could stand on the bank and see the sand passing right along, if you would sit in a boat on the river you would see it right on the surface, right on the surface of the water see the particles of sand, dip down and take it right up with your hand - take a glass and dip it up and you would have half an inch of sediment

Q - Does that run right in the water? A - It runs right in the water, yes

Q - What brings it up?

A - I suppose the force of the current, I know no other way

Q - Do you know of any such thing as a sand wave? A - Well, no; not in that - I think not - I will answer that.

Q - How is that?



A- I have seen waves this way full of sand rolling this ~~way~~ way over and over in the American river often.

2- How high have you seen those? A- I have seen them from three to four feet high.

2- What made those waves.

A- Well, that is a little more than my philosophy teaches me I don't know.

2- Were there any steam boats there or anything to ruffle the water?

A- No sir, nothing to trouble it, and I have seen the same at the mouth of the American river where it intersects with the Sacramento.

2- What have you seen there

A- I have seen the waves roll there where it intersects the Sacramento as high as your head.

2- What were those waves

A- Well, they was composed



of sand from the American,  
 Mr. Catlin. 2- Then you  
 have seen sand waves were  
 composed of sand?

A- Yes, Judge Catlin if ~~those~~  
 those are sand waves I have  
 seen them that is all.

2- How often have you seen  
 those large waves you  
 speak of as high as your  
 head filled with sand at  
 the mouth of the Sacramento?

A- I saw them in 1862  
 and I saw them in 1868  
 at the time of those ex-  
 travagant floods. I don't  
 recollect any other year  
 that I went there.

2- At the mouth of the American  
 not the Sacramento, was it?

A- Yes sir, I have seen them  
 almost every year when  
 they occur at my own door.



Q. About how thick is the sand in that water

A. Well I have sifted it up very often on purpose to ascertain and it will take an ordinary glass like those with the ~~small~~ bottoms if you take an ordinary glass as large on the bottom as that and fill it up from  $\frac{3}{8}$  to  $\frac{1}{2}$  an inch and sift it down

Q. from  $\frac{3}{8}$  to  $\frac{1}{2}$  an inch?

A. Yes sir that is immediately after the river rises the first time in the year

Q. Have you examined that farther up than the mouth? or at home 3 miles from the mouth

Q. You have examined it at the mouth of the stream about 3 miles from the mouth

A. Yes Sir

Q. Is this the natural operation of the water or is there anything else to cause the water to make these waves



that you know of  
 a I can conceive of nothing  
 unless there is depression  
 in the bottom that you cannot  
 see. If there is cavities  
 in the bottom of the river  
 when the water goes into those  
 cavities it will rise on a  
 less surface and make  
 those waves I can't think of  
 anything else

Q Have you ever with a  
 view of testing the question  
 as to whether the water caused  
 the sand or not taken glasses  
 of water or buckets of water  
 pails of water from the  
 river when it was not in  
 waves? A. Yes sir

Q where it was smooth  
 A Yes sir

Q What did you find  
 there A I have taken  
 that in —

Q (intg) That is where the  
 current was very swift as  
 it would be in the winter  
 time without any waves.



A. Yes Sir. I done that last year at my own house right at the door

Q What did you find

A I found sand in the bottom of the bucket a good sized bucket. I found sand about  $\frac{3}{8}$  of an inch

Q  $\frac{3}{8}$  of an inch deep?

A That is a quarter of a mile from the river. It run right in front of the door very swift very swift indeed and I went down there and took a bucket and remarked how airy — by the way the water last year was not the same color it has been heretofore

Q Well now I want to ask you whether or not you have made these experiments more than one year since this sand has been coming down and if so about how many years in <sup>to</sup> company the whole number? A. I dont think I ever made them more than 3 or 4 times 4 times perhaps. Q. What was the results that you found at those times; always the same or different.



A. They were all alike only sometimes I made these examinations earlier in the fall and whenever they was made at the commencement of the flood there was always more sediment in.

Q From your examination when did you find that the river carried the most sand in the water

A When it first commenced to rise.

Q When it first commenced to rise? A. Yes sir

Q Why is that do you know

A In addition to that when it first commences to raise it is when the rain or any other cause, the melting of the snow and rains comes together and makes a rapid rise

Q There is where the current is swiftest?

A Yes sir, the current is the swiftest and there



is the most sand in a rapid run

Mr Batlin That is a rapid current is a swift current is that what you mean  
A No I mean a sudden run Judge Batlin

Mr Hart Q Did you continue your tests to the surface of the river, or did you undertake to test it from the bottom to see whether or not the sand run thicker and deeper and heavier in the bottom than the top &

A I never tried it from the bottom

Q Never tried that &

A No Sir

Q Do you know where ~~most~~ most of the sand runs in the water, whether in the bottom or the top.

A No.

Q You have stated that the river cleaned itself out

A Yes Sir.



Q- Do you know where the most sand runs in the waters whether at the top or the bottom? A- No

Q- You have stated that this sand cleans itself out?

A- Yes Sir

Q- Do you know when it is? what stage of the flood it cleans itself out generally?

A- When it first commences, when it runs out the manner of cleaning out is this that I speak of. I want that understood fairly. When the Sacramento is low and as I said before, five out of six years since I have been in California the American River rises first, being a short distance to the head of it, it comes down with a great deal of velocity and then the Sacramento being low it runs by my place with a great deal of current, force of current, say 10, 12, miles an hour



Now for instance the river is very full of sand bars now at the present time, but let that come as it did in 1859 or in 1868, it will clean out one half in two thirds of what is in there and then when ~~the~~ the American river comes down -

Q (Intg) Sacramento you mean

A - I mean when the Sacramento comes down, it slows up the American, if I am permitted to use that word and that deposit come right back again

Q - Where from? A - From the mountains

Q - Do you mean to say that the deposit that goes from the American river out into the Sacramento, comes back from the Sacramento into the American? A - No Sir, I don't mean it runs up hill at all

Q - What do you mean?



A- I mean it comes from the mountains or up that way.

Q- Then it don't come back but other deposits come?

A- Yes, other deposits to replace it. And I have often known that to be here. Well I measured them in 1859 as I said before and in 1868 I took - as I remembered to you the bridge was begun in 1868 and I had to cross afoot and I had my boat at the end of the pier and I used to push it across and run it across. I took a 16 foot pole at the end of the pier of the bridge.

The approaches of the bridge on this side were gone and I moved the boat there and put a ladder to get to Sacramento. At that time there was nobody on that side of the river, but myself and one other man. They had all absented.



themselves and I took a 16  
 foot pole from the house  
 and measured it and I  
 couldn't touch bottom by  
 running the pole down that  
 way (showing) And in  
 three weeks in the same  
 place where a 16 foot pole  
 wouldn't touch the bottom  
 and when it did the next day  
 or two when the water receded  
 a little, I could touch the  
 bottom a little; I thought  
 it touched hard ground  
 from the appearance; it  
 touched the hard solid  
 surface; - and in three weeks  
 afterwards or perhaps less  
 time, two weeks afterwards  
 there was dry ground where  
 it was 16 feet deep and the  
 water hadn't risen at all  
 in the American river  
 only showed up, you know  
 and brought those down  
 The Sacramento remained  
 the same or about the same  
 2 - It would fill it up



with sand:

A- It would fill it up with sand, come down, filled it right up, all down the river, all along the bank.

I- Now then from your observation there in a few words as you can, describe the process of cleaning out and filling up?

A- Well when the force of the current from this extravagant high water, quick high water, what I mean by heavy rain in the mountain, heavy rain in the valley or perhaps a little snow in the mountains added to the rain you know - it comes very forcibly and raises the American river very quick; for instance it rains today and tonight tomorrow afternoon you have high water.

I- Well you need not describe the rains.

A- Then it comes with a



great deal of velocity and it will carry every thing out, if there is nothing in the Sacramento to prevent it. If the Sacramento is up it can't carry it out because that acts as a dam, acts as a preventative.

Q. What comes after that?

A. Then it fills up the more, adds to it.

Q. How often has this river within your knowledge done that thing since 1865-1866?, the American River?

A. It done something of that kind in 1866 as I said before, in 1859 - oh you said 1865.

Q. No. 1862

A. 1862, yes sir. Well it done something of that, the very kind in 1866 after the new bridge was put up: it cleaned out a great deal of sand on both sides of the river opposite my place and Mr. Millgate.



and Mr. French as it is now below me. It cleaned a great deal of sand out, not near as much in 1866 as there was in 1865 or as there was in 1862. But in the Spring again it returned from above.

2. How wide is the sand belt now between the City of Sacramento and the North side of the American river, that is the North bank where you find hard ground, where you find red lands?

A. Where do you mean?

2. From the commencement of the sand on this side to the termination of the sand on the other?

A. Well it is a half a mile to the bridge.

2. Well is that all sand commencing at the sands?

A. Why the ground on each side of the road is all sand, yes.



I. Well that is what I am speaking of?

Mr. Cablin 2. Each side of what road are you speaking of Mr. Cone

Mr. Hart. Well I am speaking of another thing now entirely. He was speaking of a road running through the sand I suppose

The witness Yes

Mr. Hart. I want him to commence and give me the distance and width of the sand belt commencing at the sand on this side and running to the end of the sand on the other side?

A. Well, I will then give it to you in pieces and you can multiply it as well as I can. In the first place it is a little over a half a mile from the line on B. street to the American river: then it is a little over a half a mile from



The Amer can river, End of  
 the Amer can river bridge.  
 to the end of the other bridge  
 on the other side. I know  
 to a dot how much that is.  
 The stake is on these End of  
 the bridge. It is a half a  
 mile and one hundred  
 feet on the other end, 'till  
 you get to the high land  
 and it is all sand Every  
 side of that was the question

2. Yes sir that is all.  
 I believe, that is all that  
 I wish to ask about

## Cross-Examination of George Cone

Mr. Catlin 2. Is this tract  
 you just spoke of all sand  
 or isn't a large part of it  
 what is called sediment?

A. Which

2. That you have just  
 described?

A. Why it is now sand



It used to be a pretty good sediment some, but it has not been cultivated only a few places for several years.

2. What? A. There has only a few places been cultivated for several years on that road that runs there.

2. Well this strip of land commencing —

A. (Intg) At the levee?

2. The half a mile this side of the river till you get to the bridge? A. Yes sir.

2. Is not the greater part of that, this material that is usually called sediment?

A. Yes sir now.

2. Yes. A. Now it is not.

2. When did the sand come on there?

A. Yes sir it did.

2. I say when did the sand come on?

A. Came on last year a great portion of it and some the year before.



Q. Any sediment there?

A. Yes.

Q. How much sediment?

A. Well, I can't tell how deep the sediment is there. It has been hauled off

Q. You have been very familiar with it for years?

A. Yes sir

Q. Can't you give us some idea about how deep the sediment is there?

A. No I can't for this reason. How deep the sediment is, on a part of that ground that is on that side of the river the other side of the levee - You understand the B street levee there - a part of that ground, a large portion of that was hauled off and placed on the Capitol grounds, and a large portion of it has been hauled off into the city.

Last year the river replaced that ground with sand and I don't think there is a



man in the world without an examination, could tell how much sediment there is there

Q. Well, before it was hauled off what was its depth there this sediment

A. Well it must have been in some places there even 7 feet deep, sediment

Q. Well that sediment has been hauled into the city here to a great extent to fill up lots hasn't it?

A. Yes, sir

Q. Isn't that productive?

A. No sir; that is, it was the sediment that was on there first, if it had been cultivated the second or third year, perhaps it would have produced a very good crop?

Q. Well haven't you produced good crops after the second year's cultivation?

A. Yes, sir, very good.



Q. The same amount of sediment on your land?

A. I say yes; but I want to explain that

Q. You said so on the direct examination, I don't want you to take it back I merely wanted to remind you of it

A. I wanted this stated though, in relation to the sediment.

Q. Just answer my questions now.

A. Well?

Q. Now isn't this land on the bridge on the other side. through that bottom toward Larues; isn't that principally covered with this fine material that is usually called sediment?

A. No sir, it is not.

Q. Was it never covered with sediment?

A. Yes it was

Q. What has become of it?

A. A part of it has gone washed off and filled up



with sand

Q. Any sediment that was there washed away

A. I presume there has the height and the character of that land

Q. [Intg] A. Answer the question. The sediment deposited on the other side

has not been hauled away by teams has it?

A. No sir,

Q. It has not been washed away has it?

A. I think it has.

Q. You think it has?

A. Yes, because there is sand on top of it

Q. Couldn't the sand get on top of it without the sediment being washed away first?

A. Yes, certainly

The Court. Try and speak loud and distinct if you can.

A. I will do so.

Mr Cattin. How many acres



of land did you say you had there? A. Seventy-two

Q. You have stated that fifteen acres of that was covered with such sand as is washed there as No 4. You remember what you have stated on that

A. Well if that is No 4 I repeat it

Q. Now what is there on the balance of your land, what is that covered with?

A. On the balance of the land there is some of the same character, but not so much

Q. Well, what else was is there on it? A. Sediment

Q. That is the land that I you have cultivated?

A. That is the land that I tried to cultivate and raised no crop on this year

Q. This year, but haven't you raised crops in former years on it?

A. Yes, I raised 73 bushels



of barley to the acre on it all  
 Q. On that sediment?

A. No, not on the sediment.

Q. Well that is what I was  
 asking you about whether  
 you had not cultivated  
 that sediment?

A. I have cultivated the  
 sediment. I have cultivated  
 it and raised very good  
 crops after the second or  
 third year.

Q. Didn't you state in the  
 direct examination that you  
 did it after the first year?

A. I raised crops, yes sir,  
 but not a very good one. I  
 didn't use that language.

Q. So the first year after-  
 wards you raised a crop  
 but not a very good one.

A. Yes sir.

Q. The second year you  
 raised one better.

A. Yes sir, that is correct.

Q. And the third one  
 still better? A yes sir,  
 that is correct.



Q Now there has fifteen acres of your land been covered with that sand. How much has been covered with that sand on the proprietor that adjoins you immediately above you? A. Well, Mr Flint has 102 acres and I think with very little exception his was nearly all covered that way. His lies adjacent to the river. There may be some exceptions to that.

Q. You say you think? Do you know? Can you state where how many acres are his 110 is covered with this what you call sand?

A. No sir, I could not but I have been over most of it and it is most of it covered that way.

Q. The most of it?

A. Yes, sir

Q. Well do you mean that there is 50 acres of it covered that way?



A Yes, sir I mean there is more than 50 acres

Q. Did you ever measure it in any way to ascertain?

A. No sir, but I have been round the survey and ~~over~~ <sup>know</sup> the survey.

Q. What survey?

A. Mr. Flint's survey and my own both, and I know where he had hops last year and there is no hops this year. I know the character of the ground the hops grow on.

Q. He had crops there last year? A Yes sir in the year 1881

Q. But the year 1880?

A. Yes sir, for five years preceding.

Q. Well did he raise hops successfully there for the five years preceding?

A. Very good crop

Q. A very good crop of hops? What kind of material was that in which



those hops were planted

A. A part of that ground had some sediment on

2, Didn't it all have sediment on it?

A. Some little; not much. Some of it had very little on so that he could reach the old soil

2. Well, what was the remainder that was not sediment?

A. It had sediment and the roots penetrated.

2. You said it had a little sediment. What was the remainder of the land? what was that? The original black adobe soil as it was at an early day?

A. It is not adobe soil

2. Well the original soil whatever it is

A. The rich, black, alluvial soil. And the hops penetrated that soil and raised good crops with sediment that deep and



That deep & illustrating?

Q. Then there was sediment all over it wasn't there?

A. No sir

Q. Well how much of that land remained just as it was in the fifties before there was any land covered with debris? How much of that land was virgin soil? A. How long ago?

Q. During the five years up to 1880 that he was raising hops?

A. Well all the ground that he raised hops on with the exception of some little, you know, had sediment on, but a little sediment; not much

As I said before sometimes four inches and sometimes six or eight

Q. You see you have not answered my question yet

A. Then I don't comprehend it

Q. How much of his land on which he raised the hops was free from sediment in



truly? A. Not much very little

Q. Was any of it? A. Yes

Q. How much? A. Well I can't tell

Q. You don't know, do you?

A. No, I couldn't measure off the little piece of ground

Q. {intq} Well there was some of it? How many acres now didn't have any sediment on it? You have not measured any of these distances have you?

A. No sir I have not <sup>meas</sup>ured any—

Q. {Continuing} And are as you have given, except with the eye. Now give me the measurement from your best judgment of the amount of land that Mr Flint had in hopes that was not covered at all with sediment

Mr Hart Now he wants to answer the first part of your question, Mr Cattin



You asked him if he had made any measurements and then you go on and ask something else, He tried to answer that and you didn't permit him.

Mr. Leathin - I will withdraw that question and ask on to accommodate General Hart

Mr. Hart - Very well

Mr. Leathin - 2 - The thousand acres you name here did you ever measure that?

A - No Sir, I said I didn't know - there was quite a thousand acres; there might not be a thousand acres but I believe it to be a thousand acres.

Q - Have you measured any of the areas and distances in regard to land that you mentioned in your direct examination?

A - No Sir, only I want to make that explanation -  
2 (Intg) With the ex -



ception of measuring the length of the old bed of the American river?

A - No Sir. I didn't judge by such a source.

Q - Well you measured that

A - No Sir but the character of the thousand acres Mr Leathin was that when that

Q (Intg) I am not talking of the character of the thousand acres. I want you to tell me how much land Mr Thut cultivated of the hops during the five years preceding the year 1881, that was not covered to some extent with sediment?

A - Didn't cultivate any in 1881

Q - Prior to 1881 I said, for the five years prior to 1881

A - Well perhaps ten acres

Q - Ten acres of it has never had any sediment on it at all?

A - I don't think there is



any sediment on ten acres of it  
There might have been less

Q - Does that land lie on  
the same level with the  
other?

A - No Sir, it is  
below

Q - It is still lower?

A - Below and lower ground  
and the current was stronger

Q - When the sediment was  
lodged around there?

A - The sediment is there  
now.

Q - What? A - There is  
sediment there now this year

Q - The sediment came on  
then during the last year?

A - Yes Sir

Q - On his land? A - Yes Sir

Q - But none came on this  
10 acres until last year?

A - I don't think there must  
have been 10-15 acres that  
there was it any of any  
account - any amount; there  
might have been half an  
inch or three eighths but  
it didn't discover itself in



in the plowing at any rate  
The plowing was black

2 - As I understand you when the American river rises and especially when it rises suddenly at the first rise it brings down a large amount of maddy material? A - Yes Sir

2 - The force of the current is in the centre of the river?

A - Not when it is rising

2 - What? A - Never when it is rising. That is inconsistent with the river anywhere

2 - The force of the current is not in the centre of the river when it rises?

A - No Sir

2 - Where is the force of the current when the river rises? A - When the river is rising it is always highest in the middle and the force is not there

2 - It is higher in the middle?



A - Yes Sir it is higher, the river is

2 - And the force, the strong current is not in the middle

A - No Sir it is not the centre, that is, the great strength of the current is not in the middle because it is carried from one bank to the other in its meanderings

2 - I am talking about it. I am following its meanderings

In its meanderings does not the force of the current follow the centre of the meanderings of the river?

A - No Sir it follows the bend. For instance in here (showing) and goes the contrary way

2 - Where is it you say these waves you spoke of?

A - There were the rivers is straight, after this cut was made above the bridge, the large bridge I saw there. It was directly on the other side of the river from here;



it was in the first bend within 150 feet of that bank; not in the middle; the bridge is 630 feet long.

Q- Where would the bridge

A- Well and that is within 150 feet of that side (showing)

Q- I am trying to get away from that bridge a little bit? A- Well there is where I live

Q- These things you have observed you have observed mostly in the vicinity of that bridge?

A- Yes Sir that is true

Q- But you have seen the Sacramento River when it was very high.

A- Yes Sir

Q- Where is the swiftest part of the current?

A- Where it is falling it is in the centre

Q- How is it when it is at its highest stage?

A- It follows its meanderings



in these elbows.

Q- It follows the meanderings in the elbow?

A- Yes Sir always; in all rivers too. It knows that as a theory.

Q- Will it is because it is where the deepest part is is it not?

A- I suppose so.

Q- It follows the channel does it wherever that may be?

A- Most generally.

Q- What? A- That is most generally the fact where it is the deepest, that the meanderings are the deepest.

Q- You said you saw waves of sand there?

A- Yes Sir, That is waves with sand in them, if you call that waves of sand?

Q- Oh you saw waves with sand in them?

A- Yes Sir, that is what I told you.

Q- Well were they water waves?

A- Yes Sir, water and sand together mixed



Q They were water waves  
with sand in them?

A Yes sir that is the style  
of it

Q When you were first  
questioned on that subject  
you stated to Mr Hart that  
you didnt understand such  
a thing as sand waves?

A Well I didnt now by  
that expression unless you  
take my explanation - water  
waves with sand in them

Q It was muddy water?

A Yes sir with sand in  
them

Q Well it was mixed  
with sand? A Yes sir.

Q Was there anything <sup>else</sup> ~~but~~  
but sand in it?

A Well that was what it  
would show by glass, sand  
I answer my question  
nothing else but sand in it?

A I dont know

Q Well if you take pure  
sand will that muddy  
water much



A. Yes Sir. It ain't white sand

Q. Will muddy, the water as much as the sediment does

A. No Sir

Q. Will this water was extremely muddy

A. Very muddy

Q. And was it not muddy because it was highly charged with sediment?

A. Well now there is a very great deal of difference

Q. At the time you spoke of when you saw it

A. Well in 1862 it was red, red mud, sand, ~~it~~ redder. The river was redder something like Red River

Q. Was there any red sand in it? A. Red sand in it coming like it might come from this bar or some surface locality; none of late years it has been getting whiter and whiter all the time; last year



very much whiter than it was before

Q Wasn't the river when it was high a reddish color a reddish color, muddy color A - always until last year, when, it was getting whiter as I said before.

Q You mean by that it is getting clearer?

A No Sir I mean it is getting thicker with a white sand in it

Q Getting thicker with a white sand in it?

A Yes Sir

Q This material you have taken up a bucket of it, and when it settled it would deposit almost  $\frac{3}{8}$  of an inch? A. Yes Sir

Q Then according to your theory this sand wave was composed of about that proportion of water?

A I should think so, yes.

Q If a bucket was twelve inches deep and there



was half an inch of sediment at the bottom there would be  $\frac{1}{24}$  of it that would be sand the other would be water?

A. Something like that, yes sir

Q. Then a sand wave is a wave that is composed of  $\frac{1}{24}$  part of sand and other muddy material and the other twenty three twenty fourths of water

(Question objected to and varied)

Q. The water is always muddy in the winter isn't it, has been from an early day

A. Yes sir, after a rise

Q. and especially in the first stage of the rise

A. Yes sir. Yes Always muddy in Winter

Q. After running a few days does it change in its character, as to the amount it carries? A. Well generally, not much in the winter and spring. It maintains that same



muddy character all the winter and spring

Q You have stated it is muddier immediately after a rise? A. Yes Sir the first rise it brings the surface and makes it thicker with mud and sediment, sand.

Q You say the American beats all rivers for mud, I understand what rivers besides the Sacramento does it beat for mud? A. Unfortunately I have been on the Missouri, Arkansas, Red River, Mississippi, Ohio, and some of them will compare very well with the Sacramento.

Q Do not some of those rivers carry pretty near as much mud as the Sacramento and American do? How about the Sacramento, comparing them with the Sacramento? A. Well perhaps in the Arkansas a very sudden rise in June, which most always occurs then in June or July - they call it a June rise, sometimes it doesn't come till July - a sudden rise there will compare pretty well with the Sacramento and Red River also but it will never compare with the muddy American



Mr Hart, I dont understand this witness is speaking of the Sacramento - above or below where the American puts in?

A. I mean just above the mouth. ~~The Sacramento at Red Bluff and Colusa, up there, is all clear.~~ where the Sacramento

Mr Catlin, you said the Sacramento must have been 16 feet deep above the mouth of the old American, the old mouth of the American?

A. No sir. I didnt. That is a mistake. I said right below the mouth of the old American, right where the gas works are. I seen large vessels there, and I imagined the water was 16 feet deep. Not above.

Q you didnt mean to say that the Sacramento river above that was that depth?

A. No sir I did not I didnt say so because I knew better than that

Q. Didnt you say that the bar that is now formed between the new mouth of



The American and the old mouth of the American was in water that you thought must have been 16 feet deep?

A. The bar now?

Q. Yes sir? A. Yes sir. I did say so at the mouth of the old American the bar is 16 feet deep.

Q. That is in the Sacramento river, isn't it?

A. Yes sir, at the mouth of the old American above the mouth of the old American the old American river, it wasn't so deep. I knew the water wasn't so deep there.

Q. That is it was not so deep in the Sacramento as it was in the American?

A. No. I didn't say so I mean in the Sacramento below the mouth of the old American the water was 16 feet deep by the gas works.

Q. Well, take the Sacramento river above its old mouth



is what I am getting at  
 A. Well it was not so  
 deep I don't know how  
 deep it was. it was not  
 near so deep.

Q The Sacramento river  
 above its old mouth was  
 not so deep? A. No Sir

Q. But you don't know  
 how deep it was?

A. No it is a bar now

Q you never measured  
 any of those depths. did  
 you? A. No.

Q Now tell me how you  
 get at this estimate of  
 1000 acres of land within  
 a length of three miles that  
 is covered with sand?

A. Well I think I can  
 tell you. That grant has  
 been surveyed three or four  
 times.

Q. Which grant? A. Norris  
 grant. My land lies contiguous  
 to that grant and I have  
 been with these surveyors  
 twice on that grant



Q What? A. I have been with the surveyors twice on the grant - I have helped to survey my own land.

Q Is yours on the grant? A. No sir. Mine is Contiguous to the grant.

Q Well haven't you got some on the grant? A. I lease from the grant about seven acres Mr Cadwallader - Let the witness make his statement you are interrupting.

The Witness, I have got about seven acres of the grant land in my enclosure which they give me that is - they give me the use of it for a dollar - I have a lease of it for a dollar a year -

The Court, That is not very important -

A - No. now the ground which I spoke of - the thousand acres, I know to the extent which it goes. That is the reason why I said



a Thousand acres.

Mr Catlin where does it  
Commence? A. Well it Com-  
mences at the mouth of the  
river, three miles below me

Q. Oh it Commences there?  
A. Yes sir.

Q. It takes in all this  
Bannon; A. Yes Sir, I  
mean the Bannon and the  
Bacon place as I mentioned  
before.

Q. Now isn't that Bannon,  
isn't that mostly covered  
with sediment?

A. There is a great deal  
of sediment out on the back  
portion of it. yes sir. It  
has destroyed this pasture  
there with sediment and  
nothing but burrs grow  
on that, and nothing but  
burrs grows on that next  
to the river, the sloughs.

Q. Nothing but what grows  
on that? A. Burrs. I  
forget what they call them;  
burrs. anyhow, then that is



three miles. you know. Judge Callin.

Q. yes. I misunderstood you before. I thought you estimated commencing half a mile below the bridge. A. No Sir. It would take it from the bridge and this six miles. ~~and~~ then up to Larues place as I said before. Clear all the way now - and I will tell you exactly how far it is to Larues -

Q. [Intg] Now is there much sand on that right on the bottom in front of where Larues house stood?

A. Oh. it is worse -

Q. where it stands now?

A. That is worse. The bottom portion of that has washed off and it is alkali.

Q. It is alkali.

A. yes

Q. ~~and~~ that alkali that <sup>was</sup> there was native to the soil before the flood wasnt it?

A. That is only a few acres.



Q. answer the question. Wasnt. that alkali native to the soil originally?

A. Well sir that is more than I know.

Q. you dont know?

A. That is more than any body could tell. what was below the surface.

Q. Didnt you see alkali there in 1852, 3 and 4?

A. I didnt see any because it grew good trees there. There is two miles and three quarters from the bridge to the upper end of the Hugh Larues land.

Q. Dont you know, as a matter of fact that a part of the bottom lands that Mr Larue occupied were effected by alkali? A. yes sir - the lower end of it very badly -

Q. Before the floods?

A. Yes sir.

Q. Some of it very badly?

A. yes sir not much though.



not much of his grant.

Q. Not a very extensive area?

A. No.

Q. Now how far is it from the bank of the river at the bridge. to where you strike the natural red land?

A. From the bridge back.

Q. Yes. going across the bridge.

A. No the red land is just exactly - the stakes stands at the end of the bridge and the bridge is 100 feet long.

Q. Now then give the distance.

A. That is a half a mile. and a 100 feet as I stated before.

Q. It is about half a mile over the bottom land?

A. Yes Sir.

Q. Will you come to the red land? A. Yes Sir. half a mile.

Q. The red land is higher land isn't it? A. Yes Sir - used to be a good deal but now the water runs over it the same as it



does over the bottom.

Q. over the red land

A. yes sir

Q. Does it run over the red land where Larue's house is? A. Runs between his house and barn.

Q. Does it run over the red lands on the Harris grant?

A. yes sir. lots of them. thousands of acres of them.

Q. whereabouts? A. above where the trestle work stands of the bridge, in 1868—

Q. Well, don't the deposits of sediment on this red land improve the value of those lands? A. Not a drop—

Q. What? A. Not a drop

Q. Did you say Larue had to raise his house?

A. yes sir. he moved it from the bottom to where it now stands. and the water has been close into the door at that.

Q. He raised it from the bottom by putting it on the



high red lands.

A. yes sir. and raised it after he put it up there

Q. Has the water ever been up into Larues house?

A. No. I think not. my recollection is it never has been in the house.

Q. were you here during the big flood in 1852 and 53?

A. yes sir. I was through it all.

Q. What? A. I was through all that flood.

Q. Didnt that flood cover all those bottem lands you have been describing?

A. yes sir all the bottem.

Q. How deep? A. well not very deep.

Q. Didnt it cover them from four to six feet deep?

A. Oh, no.

Q. many of them

A. No

Q. much of it? A. No, not a quarter of it.

Q. Did it extend to the base.



of the red land there. where  
the red land rises?

A. It extended to the base  
of the red land.

Q. Did it cover all the  
lands from that red land  
to the Sacramento river?

A. Yes all the bottom. the  
original bottom.

Q. It covered all the bottoms?

A. Well nearly all. There  
might have been some few  
places at the bridge where  
I lived.

Q. [Intg] Didn't it go over  
the roads there?

Mr Cadwallader Let him  
answer.

Mr Collin I am trying  
to get him away from that  
little spot where he has lived  
for the last thirty years.  
I want to get him away  
from the bridge and see  
if he knows something about  
some of the other lands.

Mr Cadwallader you are not  
very decterous. Then.



Mr Catlin Q. Did it flow over all the bottoms on the Norris grant? A. I Couldn't say that-

Q. Clear on up to the San Juan line? A. I Couldn't say that.

Q. You don't know whether it did or not? A. No. I wasn't up that far in 1852 and I not until after that year. I was up to Larues the time of the high water. The water wasn't deep anywhere on the bottom. No place down there.

Q. were you there when it was the highest?

A. yes sir - I was there when it was the highest

Q. How deep was it on Larues. bottom? A. I guess it may be on an average about 18 inches from 3 feet to 18 inches. Some places the water was higher on the bank of the river it was higher. I don't mean



to have you say I was  
at Larues at the highest  
water.

Q. How } A. I dont mean  
to have you understand that  
I was there at Larues at  
the very highest water. but  
I was up there in a boat  
soon after.

Q. I thought you stated  
you were } A. No. I was  
at home at the highest water  
you see you were getting  
away from the bridge and  
I was at the bridge. The  
water was not in the  
house. and the house only  
stood a foot from the  
ground.

Mr Hart Q. you say it was not  
in your house and your  
house was only a foot  
from the ground at that time?

A. That is all. That is a  
house I boarded at. I  
didn't own it.

Mr Catlin How is that }

A. I say I didn't own



the house. my brother owned it. and the water didnt get in the house. it got on the porch floor.

Q. where was that house situated? A. Right the other end of the bridge.

Q. There were a good many settlers or squatters on the Norris grant, were there not?

A. Yes Sir.

Q. well when that grant was finally confirmed, didnt they leave there mostly because they were required to do so by the owners?

A. they got out writs of Ejectment against all of them pretty much.

Q. How? A. They issued writs of ejectment against all, all those that wouldnt lease, Mr Hart. what has that to do with this case?

Mr Collin The question is absolutely proper and I dont think it is necessary for me to explain here.



Mr Hart I would like to know  
He is asking something about  
some ejectment suits.

The Court To show why they  
left there. I suppose.

Mr Catlin, yes. it is very plain

Q. Writs of ejectment were  
issued against all of them  
about, you say, and they  
had to leave ultimately on  
that account did they not?

A. Yes sir. There were 33  
of us in a pile.

Q. you held out as long  
as you could? A. yes sir

Q. Till they were satisfied  
that the title of the owners  
of that grant was superior  
to yours? A. yes

Q. when you were finally  
put out - when the writs  
came against you then you  
left. A. No. sir we did not

Q. you hung on still  
longer did you?

A. we did that. we fought  
them for two years and  
saved our rent.



Mr Hart Saved your land?  
 A. Saved the rent by fighting  
 two years, and paying an  
 attorneys fee.

Re Direct Examination  
 of  
George Cone

By Mr Hart.

Q. You say in 1852 your  
 brothers house was only a  
 foot above the surface  
 of the soil? A. Yes. just  
 a foot.

Q. And the water got where?

A. The water didnt get  
 in the house, it got on  
 the porch, which was 4 or  
 5 inches -

Q. (Intg) How deep does  
 the water run there now,  
 during high water?

A. At the highest we have  
 had?

Q. Yes. say in 1880 and 81.

A. Well, from 5 to 6 feet.

Q. Is the house in the  
 same place yet? A. No sir.



Q. where is it now ?

A. It is gone-

Q. It has gone where ?

A. Well. I don't know where it has gone - oh a part of that house ! I beg pardon.

Q. Well, did it burn up ?

A. Yes. part of that house burned up but the other part of it you know, was moved away and put up higher. I had forgotten that part of it.

Q. Well, what has become of that ? A. Mr Babcock now lives in it. It is put up now 8 feet.

Q. How deep did the water run at the place where you say it runs six feet now, five to six feet ? How deep did it run in 1852 - ?

(Objected to as not proper Re examination)

objection overruled)

A. It ran about a foot. Something that way



Q state what the difference of rain fall there was between the years 1851 and 1852 and the years 1880 and 81. if you know. in this locality, in the Sacramento Valley?

Mr Catlin. First ask him first whether he knows the difference between the rainfalls?

Mr Hart. I don't propose to ask him that question.

A. Well, I don't recollect 1852.

Q. Do you recollect where it was last year?

A. Yes sir 26 1/2

Mr Catlin you mean 26 1/2 inches ) A. Yes sir. I mean 26 1/2 inches.

Mr Hart. You say you have no recollection of the amount in 1851 and 52?

A. Yes. It was very high I have forgotten there was a great deal of water fell in 1852. my memory is not good in reference to that amount. but it strikes me



it was 24 then. I think I am positive, 24 inches,

Q. would you swear that it was not 36? A. No. I wouldn't swear to anything that any one would swear it was. Nor I wouldn't contradict it.

Q. what did you state to Mr Catlin in relation to the proportion of sand in these waves of water that you examined; did you state any proportion?

Mr Catlin. I object to re-examining on that subject because they examined him very thoroughly on it and I cross questioned him on the same subject.

[after discussion]

Mr Hart Q. what did you say was the amount of sediment you found in a bucket of water?

A. I said from three eighths to half an inch in a bucket of water



Q. How much did you say in a glass of water?

A. I say in a glass about  $\frac{3}{8}$  of an inch. but I want this to be understood in reference to the bucket. I took the bucket in front of my door. a quarter of a mile from my house. a quarter of a mile from the river, now. I have got it right in front of my own door, a quarter of a mile from the river - in a running current. and the sand taken out of the river was taken with a cup or glass.

Q. which contained the largest proportion?

A. Well the sand in the river -

Q. about what proportion was there in the water running in the river. of sand?

A. Well, I answered that before. as well as I knew how



Between  $\frac{3}{8}$  and half an inch.

Q. In a glass of water ?

A. In a glass of water

Taking a glass of this size, and a bottom of this size. *(showing)* there would be  $\frac{3}{8}$  or half an inch. Some-times you would get half an inch very easily — a bottle of this sort and dipped up to the height of this *(showing)* with an open pail and the bucket, I only tried the last year, and that was at my own door

Re Cross Examination  
of  
George Lane.

By Mr Catlin

Q. If I understand you then, water you dipped out where the current was running swiftly, carried more sediment than it did where you dipped it out where the water was comparatively stiller

A. No. just the reverse —



Q. you say the water, where it was still, had more, that, that which was moving slowly, Carried more sediment than it did where it was moving more swiftly, is that it? A. No sir.

Q. state what you do say } A. The current at the house was - the water at the house was only four or five feet deep, in the river where I dipped the water I don't know how deep it was. It might have been 16 or 20 and this was a current running by the front of the house, and I took the bucket and dipped it in there twice or three times and let it settle on purpose to see how much sediment - I thought I could tell how much damage it was going to do me. That is the reason I done it.

Q. which water Carried



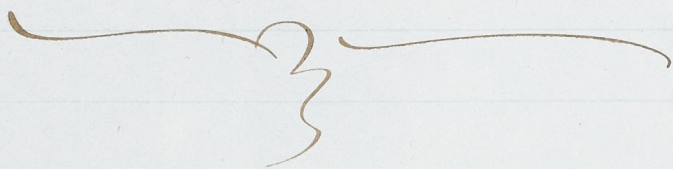
the most sediment? that that  
 ran slowly or that that  
 run swiftly? A. I didn't  
 try any that ran slowly.  
 That, that ran by the house  
 ran with a very good current  
 and that, that ran in the  
 river of course ran with  
 more force and faster—

Q. which was it that  
 carried the most sediment?

A. why, the one in the river

Q. Didn't the current run  
 there faster than it did near  
 your house?

A. yes. Of course it  
 did.





# Testimony

D. R. Crocker

Called for Plaintiff.

Sworn

Mr Cadwallader.

Q. Mr Crocker have you been hauling sand from the Sacramento river for the Railroad Company during the years 1875 and 78, 79 - 80 and 81 }

A. Yes Sir

Q. Where have you been hauling. } A. From the old mouth up to the new

Q. I mean where have you been hauling in this city }

A. In the Railroad grounds

Q. To fill up the railroad }

A. Yes Sir.

Q. Where did you take the sand from during those years }

A. From the mouth of the old river up to the new

Q. From the sand bar, starting at the mouth of the new American river and extending down to the mouth of the old } A. Yes Sir.



Q. will you look at that table and see whether you made it or not } (showing paper)

A. I did.

Q. Does that show the quantity of sand in those different years that you hauled from that bar into the Railroad grounds in this City?

A. Yes sir. full that amount.

Q. The aggregate I believe is 308,000. Cubic yards isn't it?

A. Yes sir.

Q. you locate the bar in your own way.

The Court: describe the bar you mean.

Mr Cadwallader. Yes sir

Mr Hart where it is.

Mr Catlin Describe the place where you got this material That is what they mean.

A. The bar is on this side of the Sacramento river and extends out. I should judge 300 feet from the bank of the Sacramento river and runs up to what was—



Called the Bannon Slough  
 Mr Cadwallader Q. That is the new mouth  
 of the American, isn't it?

A. Yes sir.

Q. Well. this is the quantity  
 during these years that you  
 hauled from this bar?

A. Yes sir.

Q. Were your teams the only  
 ones engaged in hauling from  
 that bar into town during  
 those years? A. No, sir.

Q. are you able to state  
 about how much of the total  
 amount hauled away. you  
 hauled away? A. That is as  
 near as I can get to what  
 we hauled away.

Q. How much was this  
 Compared with the total hauled  
 by all persons? A. Well. I  
 should judge there was fully  
 half as much of that hauled  
 away to the City, and I  
 don't know but more.

Q. you think you hauled  
 about half, would you skin  
 that bar each year down



to the low water mark ?

A. Not every year

Q. Well, some years ?

A. Some years.

Q. That is you take off the whole surface of the bar ?  
Mr Collin, Let him describe the extent of it.

A. yes sir. with the exception of the city teams running there, they would help do it.

Mr Cadwallader, what was that bar composed of ?

A. Sand, chiefly,

Q. How did that sand compare in size with the previous sand that came down, say the sand that came down in this spring and last winter. how does it compare in quantity with the stuff that came in the winter before that, winter before that ? A. well every winter if I remember right there has been more sand from the time I commenced—

Q. Has the sand been



growing Coarser } A. generally  
Mr Cadwallader. I will just  
 read this.

1874, 72-72, 30,540 yards  
 A. You dont understand that  
 I can read it better than  
 you can.

Mr Catlin, Let Mr Crocker  
 read it. It is in his  
 hand writing.

Mr Cadwallader. Let Mr Crocker  
 read it.

Mr Catlin. The reporter can  
 take it just as he reads it

A. (Reading from paper)  
 In 1872, we hauled about  
 54000 yards, and in 74  
 and 75 we hauled but  
 18000. 1878 56,000  
 1879, 108,000 In 1880, 54000  
 1881, 18,000. That is all

Cross Examination  
 of

B. R. Crocker

By Mr Catlin

Q. Mr Crocker, wasnt a  
 portion of that, a considerable



portion of it taken out of  
what is known as the old  
mouth of the American river }

A. No sir,

Q. Doesn't that bar extend  
in front of the old mouth of the  
American river }

A. It does in front. yes sir

Q. I say came out, a  
good deal of it directly  
in front of the old mouth  
of the American river, did  
it not? A. No not  
the most of it don't.

Q. well, how much of it?

A. oh I should think about  
one fourth. such a matter.

Q. you took it wherever  
it was most convenient to  
get at it, did you not?

A. along at first we did  
when it got scarce we  
took clear as far as  
the water would let us go

Q. you would take it  
down as far as it was dry  
and when it got wet?

A. when it was too



Wet. So as to mire Teams  
of course we had to —

Q. (Inty) you wouldn't haul  
it wet, when it was so  
low down as that it would  
be heavy with moisture?

A. Well. Sometimes we would  
It was pretty ~~wet~~ wet when  
it would get scarce. Some  
seasons we would haul  
more than at others, and  
then it would be scarce,

Q. Then you practically  
hailed the whole bar away  
several times, did you not?

A. <sup>No</sup> not always.

Q. what? A. No. I don't  
know any year — of course  
we had to haul where  
it was the handiest and  
plow it up and let it  
dry.

Q. Wasn't there plenty of  
that material right in the  
bed of the American river?

A. Not that we could  
get upon. It was slickens  
and would mire stock



and we couldn't get into it

Q. In the bed of the American river it was slickens?

A. Yes sir, the old bed.

Q. In the summer season when the water was low it would mire the animals?

A. It will late in the season, it had to dry up before we could get any-

Q. after it would dry up couldn't you use any of that material?

A. Could use it when dry-

Q. why didn't you use that? A. we did, whenever we could get in on it

Q. you used some of that when you could get in on it?

A. Yes sir.

Q. you couldn't use that till later in the season?

A. No.

Q. Hasn't that material been extensively used to be hauled into the city here to fill in lots and streets? A. Well, one



Or two years it was. I think

Q. where did the material come from. with which the Capitol grounds were graded?

A. From The American river along its banks.

Q. That came from the American river.} A. Yes sir.

Q. what was that material mostly - wasn't that what was called sediment, or slickens?

A. Sediment, and a good ~~deal~~ deal of it. the natural earth.

Q. whereabouts in the bed of the American river was that hauled from? how far above the old mouth?

A. well it was not immediately in the bed. it was the banks of the American river along where—

Q. well - it was the banks? It was the sediment that was brought down by the flood, wasn't it. that was hauled in there? A. Yes sir.

Q. about what point on the old mouth of the American



river. say with reference to where it was intersected by the streets of this City running North and South ?

A. all the way from 12<sup>th</sup> up to 17<sup>th</sup> and 20<sup>th</sup> Streets they would haul from.

Q. That material in the Capitol grounds principally came from the point you have just described between 12<sup>th</sup> and 20<sup>th</sup> Streets.

A. Yes Sir.

Q. and it came from the banks and the bed ?

A. I don't know as they got in at the bed. I never noticed where they hauled that from. I could see the teams running.

Q. It was sediment wasn't it. deposited by the waters ?

A. partially, It was not altogether.

Q. what ? A. They got the best material they could find over there.

Q well. they got the best material they could find along



the banks and the bed of the river, that had been deposited by the floods, didn't they?

A. It was outside of the levee, but there is blocks over there, and streets,

Q. Well outside of the levee, the blocks and streets have been covered with sedimentary deposits, have they not?

A. More or less.

Q. And they took that material? A. They could dig down sometimes in dry seasons, dig down to quite a depth,

Q. Hasn't that sediment that has been deposited here been extensively used in this city in filling up lots?

A. I think it has

Q. Don't those lots lots grow, produce vegetation very well?

A. Sometimes they do and sometimes they won't, when too new, it wants two or three years to lay to the sun

Q. didn't produce well until



after a year or two ?

A. No.

Mr Cadwallader, That is not  
Cross examination.

The Court No I think not  
Mr Catlin. That is all.

Mr Cadwallader. Q. Mr Crocker  
I will ask you if it  
is not a rule that none  
of the sediment used in  
the Capitol grounds was taken  
from a quarter of a mile  
from. from either bed of  
the American river ?

A. well as to that I  
Couldnt say because I didnt  
notice where they were  
hauling this from exactly,  
only the streets they would  
run on.

Q. you dont remember where  
it was taken from ?

A. Not exactly.

Q. this stuff noted on  
your memorandum was all  
taken from this bar on  
the Sacramento river made  
by the American river ?



A. Yes Sir.

Mr Catlin Q. Was that bar  
made altogether by the American  
river. or is it not partially  
made by the Sacramento  
river. }

A. well. as to that. is more  
than I can say but the  
way it lays I should  
judge it came from the  
American river.

Q. all of it }

A. Most of it.

Q. all of it. I asked you }

A. <sup>No,</sup> Know I dont think all  
of it. because there is  
more or less dirt in all  
of our waters here.

— // —



# Testimony of Sydney Smith

Called for plaintiff

Sworn

Mr. Hart. Where do you live? A. Sacramento

Q. How long have you lived in Sacramento?

A. Since 1854

Q. What time in 1854?

A. The first day of January I arrived in San Francisco

Q. What part of Sacramento do you live in?

A. Most of the time at Smith's gardens

Q. Where are Smith's gardens located?

A. About three or three and a half miles from the City

Q. How? A. On the American river about three or three and a half miles from the city



Q. Three and a half miles from the City?

A. From the Sacramento river

Q. From the mouth of the American? A. Yes

Q. How far from Smith's Gardens located from the ~~American~~ immediate banks of the American river?

A. They were right on the banks — the Gardens

Q. What kind of land were they comprised of?

A. Black soil

Q. How as to being productive or non-productive?

A. Very productive in every part

Q. What kind and quantity of productions did Smith the owner of them receive from those lands known as Smith's gardens?

A. Fruit, vegetables, nursery and green house plants, flowers &c.

Q. In any great quantities?



A. Yes.

Q. What were the products of those gardens worth per annum?

A. Well, along in 1854-56 I have some account of the products

Q. Well, what were they?

A. In 1854 some twenty five thousand dollars.

Q. From how many acres?

A. Fifty. That was the net proceeds of our fruits and most of the vegetables. In 1855 thirty three thousand dollars.

Q. From the same number of acres? A. Yes.

Q. And in 1856?

A. In 1856 sixty nine thousand dollars.

Q. What was the character of the American river near and along and adjacent to those gardens?

A. At that time?

Q. Yes. In 1857. 2. 3. 4. 5. 6

A. It had abrupt banks,



and the water never flowed over the old levee, not until 1862

2. What was the character of the water?

A. Well, the water I believe was somewhat roily

2. What was the nature of the soil through which the river ran there at that place, the natural banks? A. They were very abrupt

2. What is the nature of the soil?

A. Oh it was the black loam I should think and much.

2. What kind of a bed did the river have?

A. I do not know much about that

2. Was the water clean or muddy? A. No; it was what we called roily when I first went there

2. Was that in the Winter or Summer time?



A. In the counter when I first arrived there, as near as I can recollect. We did not use it much.

Q. When you say somewhat rocky do you mean rocky as it is now? A. Oh no; I do not think it was.

Q. It was not rocky like it is now? A. No.

Q. Now you say that during that time the water never flowed over the levee that you then had?

A. Not until after the big flood in 1862.

Q. How high was the levee?

A. Well, I do not think it was over two or three feet. Two or three feet I should think I recollect one time the water came up to the base of the levee, north or east of the house. I do not recollect the year now.

Q. Did it ever come up so as to fill up to the top of the levee? A. No.



2. Not before 1862?

A. Not until 1862

2. During the winter of 1862  
What came there if anything.

A. Well I was in the city  
in the flood of 1862. We  
had a store here where we  
sold our products and veg-  
etables. I was in Fairmount  
to at the flood of 1862.  
There were some ten days  
I was not out on the ranch  
at all

2. After the flood was  
over did you go out there?

A. Yes.

2. What did you find?

A. I found that the  
ranch was covered with  
sand and sediment to a  
considerable depth.

2. Were there any vegetables  
<sup>raised</sup> out there then?

A. Yes, we could raise  
vegetables

2. After 1862? A. Yes

2. How much sand and  
sediment did you find there



after the flood of 1862

A. Well it covered the whole ranch and the gardens pretty much

Q. How deep?

A. From one to six feet

Q. And you raised vegetables after that?

A. Oh yes we raised them after that. Well we could not raise much in some places. In some it was not covered so deep but what we could raise some for a year or two. We raised vegetables and green house plants, nursery stock and peaches. About all the fruit we had ever raised at that time, after 1856

Q. Now without going into a minute examination of you, I want you to tell me what has become of that valuable land out there?

A. It is in the river.

Q. Can you raise vegetables



there now?

A. Well they have not these last two years any to speak of

2. Does any body live on it?

A. No.

2. Can they live there?

A. I left there two years ago the evening December.

2. Can any body live there now during ordinary high water?

A. No, not very well

2. How high does the water run there now?

A. It was over it last year and the year before. It lasted last year and the year before until into June

2. How deep does it run over this land?

A. I was not up there but two or three times. That was two years ago and last year. But it was so that it came on and it brought on fresh sediment and sand so that it covered over all the



asparagus beds we had there so that we did not get any thing from that and covered over the potatoes and beets and all kinds of vegetables.

Q. How deep did the water run there last winter?

A. I do not know. I was here in town

Q. Did you see the water there?  
A. I did not go up there only once or twice last winter

Q. When you were there could you have run a skiff over it?  
A. At least through a portion of it; say from the levee, we had to go in a boat to go to the house.

Q. How deep was the water where you had to go in a boat? did you have any difficulty in running a boat over there?

A. We did when I was there, the current was so strong



2. But did you run on any sand bars or anything of that kind?

A. It was all sand bars. The water did not cover it at that time when I was there.

2. How? A. There had been a flood and brought in the sand but it had stopped before I was there.

2. Could you see from the trees whether there had been any water there or not?

A. Yes; I understood there had been water there.

2. But could you see? Could you tell?

A. Well, I did not look to see, for I did not go there only just to take care of some things which were in the house.

2. Had the water been in the house?

A. It was in the house about eighteen inches.

2. When?



Q. Last winter

2. How deep is the sand and sediment on that land now?

A. Well I could not say how deep it is now for I have not been on it. The man that I sold the place to put in Alfalfa; it came up very well but he said there was very little that grew; he did not get any crop at all.

2. That is what you know about how deep the sand is there? Have you not any estimate of the depth of the sand on that place?

A. Well, so that it covered all our asparagus beds.

2. Last winter?

A. Last winter and the year before.

2. How deep did you say the sand was before the winter that you came away?

Before winter before last?

How deep did you say the sand became in 1862?



A. I sand one to five feet,  
or six feet in some places

Q. How is that?

A. In some places it was  
as high as six feet.

Q. Did any of that sand  
go away?

A. No.

Q. It is there yet is it not?

A. Yes.

Q. So you know it is from  
one to six feet deep now.

Now I want to know if it  
has filled up any more?

A. The last two years has  
brought in a great deal of  
sand.

Q. How deep do you esti-  
mate it to be now on the  
land?

A. Well in some places  
there must be three or four  
feet of sand that was  
brought in last year and  
the year before.

Q. Is that four feet which  
was brought last year and  
the year before on top of the  
sand which was brought there in 1862.



A. Yes.

2. That makes - four and six - ten feet. ~~between~~ I want to know how deep the <sup>sand</sup> ~~feet~~ is deposited there?

A. Well in digging a well or in digging holes for ~~trees~~ it comes in in some places some two or three feet before you get down to the black soil. But that soil that came on in 1862 was sediment

2. I am not asking about that. I want to know how deep all these floods have covered the original soil with sand and sediment?

A. Well I can not tell exactly

2. I did <sup>not</sup> ask you to tell me exactly. I want to know what your estimate is. What do you estimate it to be?

A. I can't guess at it I suppose. I do not know that I could tell



2. Is it covered at all?  
Are you certain there is any  
sand there?

A. I guess - yes; I presume  
it is all covered more or  
less in the fifty acres.

2. Now what kind of  
Channel has that river now  
opposite Smith's garden.

A. The Channel is on this  
side and encroaches upon  
the bank which is dropping  
every winter and has been  
now for years.

2. Is the Channel deep  
now? A. I do not know.

I have not been to the river  
for the last two years. I  
have been out of health. I  
have not been able to

2. Have you any idea as to  
whether any portion of this  
river channel has been filled  
up? A. The river ap-  
pear to be filled up almost  
to full banks.

2. That is just what I  
am asking. You say it



appears to be filled up almost bank full?

A. Yes.

Q. With what?

A. Sediment, Sand; debris as they call it

Q. Where is that?

A. Opposite the gardens

Q. What are Smith's gardens valuable for now?

A. Well they have not been for the last two years for enough to pay for cultivating, fruit and all

## Crops - examination of Sydney Smith

Mr. Catlin. You and your brother now deceased were the owners of these gardens were you not?

A. My brother was the owner

Q. He was the owner but you were with him all the time?

A. I was with him



2. He had a store in the City here ?

A. Yes, I was in that most of the time

2. There you retailed the products of these gardens did you not ? A. Yes.

2. Were they not kept in a public garden for visitors to come to and buy flowers ? A. Yes. It was open for that

2. Was not your business more largely in raising flowers and greenhouse plants than any thing else ?

A. No. It was largely in raising vegetables and fruit the first three years.

2. But for a good portion of those three years named were you not largely engaged in raising plants and flowers for sale

A. We had two or three greenhouses and were raising all kinds of plants and flowers, and also raised



nursery stock

Q. You were largely raising nursery plants of all kinds were you not? A. Yes,

Q. For sale? A. Yes.

Q. And you retailed them in the city here, in your store?

A. Yes. In the store

Q. And also on the ranch

A. Yes.

Q. This product you have mentioned was the gross product of that business during those years?

A. It was the net product that I have mentioned of the three years, the first three years I was here. I happened to have an account of it is what made me mention that. That year I returned home — East — for six months

Q. The original ground <sup>where</sup> ~~was~~ a large portion of this garden was has been carried away by the river bank cutting in on this side,



has it not?

A. Yes.

2. When did that cutting away process commence?

A. well <sup>soon</sup> after the big flood of 1862, which turned the river upon us.

The channel was straight when I first went there; clear up through ~~the~~ the Morris ranch or Morris house or vineyard. I sailed up there with my brother and his partner in a yawl as far as beyond Patism Station and it was all plain sailing.

2. After the big flood, the bed of the river changed, did it not? A. Yes.

2. It brought it in on your garden?

A. It brought it in on our garden. And since then it has been encroaching on our bank which has been dropping off.

2. And that encroachment



has been gradual, Every  
year more or less  
A. Yes.

2. How much of that fifty  
acres now remains?

A. I do not know. I  
should not suppose more  
than half or two thirds. Not  
more than a third of the  
fifty acres remains

2. About two thirds of  
it has been eaten away by  
the change in the course  
of the river?

Mr. Bent. He did not  
say so. He said it was  
covered up with sand

Mr. Cahoon. He said the  
river had encroached on the  
bank so that it dropped  
off from year to year un-  
til now not more than a  
third of the fifty acres  
remains

Witness Many buildings &  
are gone

2. That encroachment is in  
the summer season as well



as in the winter is it not?

A. Of course, when the water was below the bank and rising and falling then it undermined and dropped off more than it did when there was a full flow over the surface.

2. Whereabouts with reference to 31<sup>st</sup> St. do Smiths gardens lie? How far above 31<sup>st</sup> St. ? I know where that street extended would reach?

A. Yes. I should think it was over half a mile.

2. It commenced about half a mile above 31<sup>st</sup> St. ?

A. Yes.

2. And then how much front did you have on the river?

A. The tract was about square, the fifty acres was

2. Was it enclosed in the original levee which was built to protect the city

A. The old levee? yes.



Q. The whole of the fifty acres were inside the whole levee?  
A. Yes.

Q. Why was the old levee constructed there?

A. That was constructed before I came to the country.

Q. It was for the purpose of protecting that land from overflow was it not?

A. Certainly, that was the idea.

Q. Then after 1862 when they built the new levee state where they built that with reference to your garden?

A. When they built that they left us out. They just touched the corner, the South-East corner.

Q. They left your fifty acres on the outside?

A. Yes, left us out.

Q. Just barely touching one corner?

A. Yes. We were subject to flood after that.

Q. I will ask you whether the natural bank of the



river was higher than the back land of your garden, Whether the natural surface sloped back from the river?

A. I do not know as I understand exactly.

Q. Were the banks the immediate banks of the river as they originally were higher or lower than the land immediately back of it?

A. Oh, it was higher than it was back.

Q. About how much did it slope backward on your tract of fifty acres?

A. I should think it would be two or three feet lower on the South side of our garden than it was on the bank of the river. That was in 1854.

Q. Do you recollect that your brother the owner was about to commence a suit against the Levee Commissioners for having leveed <sup>to</sup> his land and left him outside?



A. I believe there was something talked of it — about that  
 Objected to as irrelevant  
 and withdrawn.

2. I will ask you whether  
 you afterwards cultivated any  
 of this material which was  
 lodged on this fifty acres  
 in 1862? A. Yes. We  
 cultivated it all after two  
 or three years.

2. You cultivated it after-  
 wards for ordinary gardening  
 purposes, did you? A. Yes.

2. There was a considerable  
 bed of sediment, was there  
 not, as distinguished from  
 fine sand?

A. Mixed with sediment;  
 more so than ~~then~~ of late  
 years. It is clear sand now.

2. There was not so great  
 a proportion of sand at  
 that time? A. No.

2. And you cultivated it?

A. We cultivated it, and  
 after a year or two it bore  
 very good crops?



2. What did you raise there

A. All kinds of vegetables; that is, for several years

2. Did you raise potatoes

A. Potatoes are raised

2. And asparagus?

A. Asparagus.

2. Did you raise any ~~of~~ flower after that or did you continue that?

A. We abandoned the raising of flowers in 1863 I think, after the flood.

2. Is there anything here that looks like that Sediment or I will ask you to describe what sort of stuff that Sediment was. Is it what has been or is usually called Shellers?

A. Well I call it Sediment and sand; that is all I know about it; The fine Sediment that settled on the sand. When the water was still and receding slowly there would be a settlement that would settle on the sand



2. A sediment that would settle when the water was standing comparatively still?

A. Yes. When the water was high, very high in the Sacramento, it backed up there and of course made the water still, on the ranch, and then when it receded it would leave a sediment from one eighth to five eighths of an inch thick in some places. This sediment when it was dried would be soft like clay or flour.

2. It looked something like clay a sort of a gritty clay Mr. Stark That is suggestive. We do not introduce this witness as an expert on sediment Mr. Cathin I will ask you this: When the Sacramento river is high and it backs the water up in the manner you have stated does it not produce a current running up? Does not the current run up when the Sacramento river is high? A. Not that I ever noticed. —



Filed March 19th 1887

Shaw & Peckey Bank  
By W.D. Hamilton 1st Cash



